

DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE

REPORT ON THE
JUVENILE JUSTICE SYSTEM TO THE

UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS
IN THE LEGAL SYSTEM

AMENDED
FINAL DRAFT
FOR COMMENT ONLY

NOVEMBER 30, 1999

DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE

CO-CHAIRS

Dan Maldonado
Assistant Director
Division of Youth Corrections

Leticia Medina
Director
State Office of Hispanic Affairs

Lieutenant Mark Nosack
Sandy City Police Department

MEMBERS

Honorable J. Mark Andrus
Second District Juvenile Court

Narda E. Beas-Nordell
Deputy District Attorney
Salt Lake District Attorney's Office

Pat. S. Berkman, L.C.S.W.
County Mental Health Director
Salt Lake County Human Services

Sergeant Kent Cravens
Investigator
Salt Lake County District Attorney's Office

Jacob S. Fitisemanu
Parole Officer
Division of Youth Corrections

Russell N. Hagood
Chief Probation Officer
Assessment and Diversion
Third District Juvenile Court

Sergeant Ron Stallworth
Gang Intelligence Coordinator
Criminal Investigations Bureau
Utah Department of Public Safety

Senator Pete Suazo
Utah Legislature

Honorable Raymond S. Uno
Senior Judge

Honorable Andrew A. Valdez
Third District Juvenile Court

Shirlee A. Weight
Specialist, Services for At-Risk Students
Utah State Office of Education

Raymond H. Wahl
Juvenile Court Administrator
Administrative Office of the Court

Jim R. Walker, Ph.D.
Associate Director
Salt Lake County Human Services

James E. Yapias
Youth in Custody Specialist
Jordan School District

STAFF

Susana De La Cruz
Assistant to the Director
State Office of Hispanic Affairs

Claudia R. Gálvez
Task Force Intern

Jennifer M.J. Yim
Task Force Director

SPECIAL THANKS TO:

Susan V. Burke
Anti-Violence Coordinator
Commission on Criminal & Juvenile Justice

Utah Board of Juvenile Justice
Commission on Criminal & Juvenile Justice

Russell K. Van Vleet, M.S.W.
Social Research Institute
University of Utah

Halaevalu F. Vakalahi, Ph.D.
Social Research Institute
University of Utah

Lynn Holley, Ph.D.
Social Research Institute
University of Utah

Samuel Brown, M.S.W.
Social Research Institute
University of Utah

Conrad Carter, M.S.W.
Social Research Institute
University of Utah

Preparation and printing of this document financed by the U.S. Bureau of Justice Assistance and the Utah Commission on Criminal and Juvenile Justice Grant Number 98-JF-FX-0049.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	- 5 -
INTRODUCTION	- 9 -
UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM BACKGROUND INFORMATION	- 12 -
METHODOLOGY	- 15 -
PRE-ADJUDICATION & CLIENT ISSUES	- 17 -
REPRESENTATION & JUVENILE COURT ISSUES	- 26 -
POST-ADJUDICATION & COMMUNITY RESOURCES ISSUES	- 34 -
FINAL REMARKS	- 38 -
APPENDICES	- 39 -
APPENDIX A: <i>Racial Disproportionality in the Utah Juvenile Justice System,</i> “Executive Summary,” by Jeffrey M. Jenson, Ph.D., et. al., February 1995.	
APPENDIX B: <i>Strategic Plan of the Advisory Committee on Disproportionate</i> <i>Minority Confinement,</i> Utah Commission on Criminal and Juvenile Justice, January 1995.	
APPENDIX C: <i>Minority Overrepresentation in the Utah Juvenile Justice System,</i> “Executive Summary,” by Russell K. Van Vleet, M.S.W., et. al., November 1999.	
APPENDIX D: <i>Minority Overrepresentation in the Utah Juvenile Justice System,</i> “Appendix I: Strength Based Approach,” by Russell K. Van Vleet, M.S.W., et. al., November 1999.	
APPENDIX E: <i>Disproportionate Minority Confinement Progress Report,</i> July 30, 1997.	

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

EXECUTIVE SUMMARY

In 1992, amendments to the Juvenile Justice and Delinquency Prevention Act required that states address disproportionate minority confinement (DMC) by examining the extent of the problem and developing a plan to reduce disproportionality if such a problem existed. As a result, the Utah Board of Juvenile Justice formed the Disproportionate Minority Confinement Committee (Committee) in 1994 and commissioned a research study. The report, *Racial Disproportionality in the Utah Juvenile Justice System*, was presented to the Committee in 1995. The Committee published a follow-up report recommending research and systemic changes to address the documented overrepresentation. For a number of reasons, the Committee's report was not accepted and no recommendations were implemented. The Committee then disassembled.

In 1997, the Committee was reconvened by the Utah Board of Juvenile Justice to follow-up on the Committee's recommendations. *A summary of the progress on implementation is attached in Appendix E.* When the Utah Task Force on Racial and Ethnic Fairness in the Legal System was created, the Committee was asked to participate as the committee on juvenile issues. The Committee is co-chaired by Leticia Medina, Director of the State Office of Hispanic Affairs, Lieutenant Mark Nosack of Sandy City Police Department, and Dan Maldonado, Assistant Director of the Division of Youth Corrections. Membership includes many of those that served on the 1994 group, as well as new members who also have expertise in the juvenile justice system.

The Committee gathered information using several strategies. First, Committee members attended many of the Task Force's public hearings to learn about perceptions of the juvenile justice system. Second, the Committee conducted its own meetings with an educational focus, gathering

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

information on numerous issues. Finally, there was an exhaustive research project conducted at the behest of the Committee through the University of Utah's Social Research Institute. The research was funded by the Commission on Criminal and Juvenile Justice (CCJJ) and contained significant quantitative and qualitative components designed to provide a longitudinal comparison to the earlier research study. In October 1999, principal investigator, Russell K. Van Vleet submitted the research results to the Committee in a draft report titled, *Minority Overrepresentation in the Utah Juvenile Justice System*.

CCJJ has provided additional funding to examine the practice of stacking charges against an individual youth charged in a particular incident and how it may affect the number of minority youth that are processed through the juvenile justice system. This study is currently underway and results are forthcoming. The Committee will then provide an addendum to this report.

The Committee created three subcommittees that addressed each of its priority areas. A brief overview of each priority area is offered below, while a complete list of findings and recommendations are contained in the body of the report.

PRE-ADJUDICATION AND CLIENT ISSUES

The Committee began with the conclusion that law enforcement has a significant impact on the introduction of all clients into the juvenile justice system. It concludes that a lack of racial and ethnic diversity in law enforcement agencies can amplify disparate treatment by race/ethnicity. Public hearings conducted by the Task Force over the past year provided testimony indicating incidents of potential law enforcement harassment, abuse, discrimination, and communication breakdown. Certainly the perception of mistreatment by officers demands attention. The hearings confirmed there

***DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM***

is a definite need for improved law enforcement training in cultural awareness and cultural competency. Recommendations also address the need for consistent data between and among law enforcement agencies throughout the state, the establishment of a network of interpreters to address language barriers in law enforcement encounters, and outreach efforts to minority communities by law enforcement. The Committee acknowledges that to be successful, changes in training must be sanctioned and supported by the chief law enforcement executives in the state, and the desired results from the training must be enforced by management within all agencies.

REPRESENTATION AND COURTS ISSUES

The Representation and Juvenile Courts Subcommittee addressed issues of legal representation as well as the adjudication process. The use of interpreters to overcome language barriers was a major topic of discussion as well as the cultural competency of attorneys, judges and court employees. The need for racial and ethnic data and the process for tracking this data in electronic databases is addressed. Recommendations include modifications to the Juvenile Information System, enhancements to the court interpreter program, cultural competency efforts among attorneys and Juvenile Court personnel, and multi-lingual outreach with court process information to ethnic communities.

POST-ADJUDICATION AND COMMUNITY RESOURCES ISSUES

The Post-Adjudication and Community Resources Subcommittee focused on what occurs after a youth is adjudicated. The group also examined community resources to determine their availability and applicability to minority youth needs.

***DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM***

The Van Vleet research conducted for the Committee documents the risk factors present in ethnic populations, including analysis of factors related to youth, families, and communities. The researchers reviewed the existing situation using models that measure risk based on different theoretical frameworks. Committee members believe that this segment of the research is perhaps the single most important finding in the Van Vleet study and that it demands serious attention.

Recommendations in this section suggest a number of future research and pilot projects, many of which address an assessment of a risk-focused sentencing model. Other recommendations address data collection in the Division of Youth Corrections, ensuring cultural competency and multi-lingual ability of post-adjudicatory programs.

FINAL REMARKS

When the Disproportionate Minority Confinement Committee published its original report in 1995, the recommendations in the report were not implemented. All of the recommendations in this report have been formulated in response to the substantial research that has been conducted on the issue of minority overrepresentation in the juvenile justice system. In the end, this report contains a challenging agenda for the juvenile justice system to begin a comprehensive approach to understanding and addressing racial and ethnic justice in the juvenile system.

However, the DMC issue merits more than study. The Committee advocates strongly for the immediate and cooperative implementation of these recommendations. Concerted, systemic efforts will help to address not only racial and ethnic bias but also public perception and credibility of the juvenile justice system. The Committee remains hopeful that this report marks the beginning of a serious and effective implementation process.

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

INTRODUCTION

In 1992, amendments to the Juvenile Justice and Delinquency Prevention Act required that states address disproportionate minority confinement (DMC) by examining the extent of the problem and developing a plan to reduce disproportionality if such a problem existed. As a result, the Utah Board of Juvenile Justice formed the Disproportionate Minority Confinement Committee (Committee) in 1994 and commissioned a study under the direction of Jeffrey M. Jenson, Ph.D., director of the University of Utah's Social Research Institute. The report, *Racial Disproportionality in the Utah Juvenile Justice System*, was presented to the Committee in 1995 (see Appendix A). The Committee then published a follow-up report recommending research and systemic changes to address the documented overrepresentation (see Appendix B).

For a number of reasons, including political climate and personnel changes, the Committee's report was not accepted and no recommendations were implemented. The Committee then disassembled.

In 1997, the Committee was reconvened by the Utah Board of Juvenile Justice to follow up on the recommendations made in the Committee's report and in the Jenson report. *A summary of the progress on implementation is attached in Appendix E.* When the Utah Task Force on Racial and Ethnic Fairness in the Legal System was created, the Committee was asked to participate as the subcommittee on juvenile justice issues. The Committee is co-chaired by Leticia Medina, Director of the State Office of Hispanic Affairs, Lieutenant Mark Nosack of Sandy City Police Department, and Dan Maldonado, Assistant Director of the Division of Youth Corrections. Membership includes

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

many of those that served on the 1994 group, as well as new members who have expertise in the juvenile justice system.

The Committee followed the Task Force's overall model and developed subcommittees to address the same issues as those chosen for the adult system. The Committee then created three subcommittees, each chaired by one of the co-chairs.

PRE-ADJUDICATION AND CLIENT SUBCOMMITTEE

The Pre-Adjudication and Client Subcommittee focused on the processes from the original complaint and law enforcement contact to the referral to Juvenile Court and disposition. The Committee believes that the way a juvenile offender is handled in the early portion of his/her delinquency career may significantly impact his/her (and the family's support system) long term attitude, respect, and positive response to the juvenile justice system. The first, second and third contacts that clients have with the system may very well help determine long-term recidivism. Many of the priority issues of this subcommittee include: law enforcement roles and how it contributes to the DMC issue, *race / ethnicity combined with physical appearance as solvability factors for the purpose of clearing cases*, interpreter availability and certification, cultural awareness training, and data collection.

REPRESENTATION AND COURTS SUBCOMMITTEE

The Representation and Courts Subcommittee looked at the role of counsel in the juvenile justice system and its impact on racial and ethnic minorities. The subcommittee also examined the adjudication process, including court workforce issues, interpretation, and case processing.

*DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM*

POST-ADJUDICATION AND COMMUNITY RESOURCES SUBCOMMITTEE

The Post-Adjudication and Community Resources Subcommittee focused on what occurs in after a youth is adjudicated. Community resources were also examined to determine their availability and applicability to minority youth needs.

This report begins with some background information on the Task Force, the group to which this report is submitted. The next section of the report outlines the methods used by the Committee to conduct its research and examination of the juvenile justice system. The Committee then outlines its findings and recommendations in each of the three subcommittee areas. Finally, concluding remarks by the Committee are offered.

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM
BACKGROUND INFORMATION

The Judicial Council established the Utah Task Force on Racial and Ethnic Fairness in the Legal System on March 6, 1996 to examine issues of racial and ethnic fairness in Utah's criminal justice system. The Task Force is chaired by Supreme Court Justice Michael D. Zimmerman and two co-chairs, Third District Court Judge Tyrone E. Medley and John T. Nielsen, senior counsel for Intermountain Health Care and chairman of the Utah Sentencing Commission. Members were approved by the Judicial Council and include representatives from Utah's communities of color and from all aspects of the criminal justice system, including judges, law enforcement, prosecution and defense attorneys, corrections officials, and juvenile corrections officers. Members are listed below.

William P. Afeaki, *Office of Polynesian Affairs*
Daniel J. Becker, *State Court Administrator*
Paul W. Boyden, *Statewide Assn. of Prosecutors*
Susan V. Burke, *Governor's Commission on
Criminal & Juvenile Justice*
Jerry G. Campbell, *Salt Lake District Attorney's
Office*
Reverend France A. Davis, *Calvary Baptist Church*
Judge Lynn W. Davis, *Fourth District Court*
David Dominguez, *BYU, College of Law*
Christine R. Fox-Finlinson, *Callister Nebeker &
McCullough*
James H. Gillespie, Jr., *Northern Utah Community
Corrections*
H.L. "Pete" Haun, *Utah Department of Corrections*
F. John Hill, *Salt Lake Legal Defenders Association*
Judge Glenn K. Iwasaki, *Third District Court*
Sheriff Aaron D. Kennard, *Salt Lake County Sheriff*
Donna Land Maldonado, *KRCL Community Radio*

Dan Maldonado, *Division of Youth Corrections*
Judge Tyrone E. Medley, *Third District Court*
Chris J. Martinez, *Image de Utah*
Charlotte L. Miller, *Past-President, Utah State Bar*
Haruko T. Moriyasu, *University of Utah, Asian Pacific
American Studies*
John T. Nielsen, *Intermountain Health Care*
Judge G.A. Petry, *Uintah County Justice Court*
Ileana M. Porras, *University of Utah College of Law*
Michael R. Sibbett, *Utah Board of Pardons & Parole*
Jesse M. Soriano, *Utah Coalition of La Raza*
Senator Pete Suazo, *Utah Legislature*
Judge William A. Thorne, *Third District Court*
Filia H. Uipi, *Attorney at Law*
Judge Andrew A. Valdez, *Third District Juvenile
Court*
Judge W. Brent West, *Second District Court*
Jeanetta Williams, *Salt Lake Branch NAACP*
Michael D. Zimmerman, *Utah Supreme Court*

TASK FORCE MISSION

Task Force members developed a mission statement to guide the Task Force's activities and state its purpose clearly. The mission statement is as follows:

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

The Utah Task Force on Racial and Ethnic Fairness exists to organize and lead the effort to honestly examine and address real and perceived bias toward racial and ethnic minorities within Utah's criminal justice system. The Task Force shall conduct necessary research, develop and disseminate findings and recommendations, advancing and advocating in all quarters for the implementation of those recommendations.

The primary activities of the Task Force shall include:

- 1. Research: The identification and utilization of appropriate research methods, the collection and evaluation of the data to determine the extent to which race and ethnicity affect the dispensation of justice through explicit bias and implicit institutional practices. Methods may include, but are not limited to, the utilization of prior studies, surveys, public hearings, focus groups, and the evaluation of existing policies.*
- 2. Findings: The publishing of findings of the data gathered as a result of the Task Force's assessment. Findings will be published in a final report to the Judicial Council, with preliminary findings available via interim progress reports to the Judicial Council.*
- 3. Recommendations: The creation and publishing of recommendations for all aspects of the legal system, including appropriate agencies, community groups, and private citizens to ensure equal access to justice. Recommendations shall include appropriate strategies for implementation as recommended by the Task Force.*
- 4. Partnerships: The development of partnerships both in the legal system and in the broader community to assist in the efforts of the task force to include a broad cross-section of Utah's communities, particularly its ethnic minority communities, both in the fulfillment of its mission and in ensuring the implementation of its findings.*

COMMITTEE STRUCTURE

The Task Force chose a committee structure that roughly follows the criminal justice system process. An Operations Committee provides oversight and coordination.

- Pre-Adjudication Committee: to examine those segments of the criminal justice system that occur prior to any appearance in court, with a primary focus on law enforcement;
- Representation Committee: to examine the criminal justice system after arrest, from charging through disposition, with a primary focus on prosecution and defense;
- Courts Committee: to examine aspects of the criminal justice system that relate specifically to the adjudication process;

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

- Post-Adjudication Committee: to examine the criminal justice system after sentencing, with a primary focus on probation, parole, prisons and jails;
- Client Committee: to examine and evaluate the experiences and perceptions of offenders, victims and their families regarding racial and ethnic fairness in the criminal justice system;
- Community Resources Committee: to examine referrals to community programs, community resources, with a focus on quality and effect of programs on racial and ethnic minorities; and
- Juvenile Committee: to examine the juvenile justice system for real and perceived bias due to race or ethnicity.

Committees generally were co-chaired by two Task Force members and included about 15 others selected for their ability to offer a wide range of perspectives and ideas. The Task Force has over one hundred people involved in its overall efforts. The Task Force will receive reports from each committee as the committees complete their work.

RESEARCH AGENDA

The Task Force developed a research agenda for the adult and juvenile systems. The research was conducted separately for each system. Juvenile research included focus groups and exit interviews. A quantitative study duplicating earlier research on minorities in the juvenile justice system provides comparative data. The adult system research included focus groups and key informant interviews. Quantitative efforts in each segment of the criminal justice system were commissioned to determine the existence and extent of racial and ethnic bias.

TIME LINE

The Task Force aims to complete its research and publish a final report in early 2000. The final report will be submitted to the Utah Judicial Council, Utah Legislature, member agencies on the Task Force, other Task Force partners, and the general public. This Disproportionate Minority Confinement Committee report will be used by the Task Force in the preparation of its final report.

METHODOLOGY

The Disproportionate Minority Confinement Committee (Committee) gathered information utilizing several strategies. First, the Task Force conducted numerous public hearings throughout the State of Utah as a means of gathering testimony on the public's perceptions of the justice system. Committee members and research consultants attended several hearings with particular interest in those focused at youth experiences. The Task Force also met regularly to discuss issues of race and justice and to receive educational presentations on the subject.

Likewise, the Committee conducted its own meetings with an educational focus on juvenile justice system issues. Members gathered information on and assessed the following topics:

- Court Interpreter Program,
- Serious Youth Offender survey results,
- *Comparison of 1993 DMC Data and 1996 Data,*
- State Office of Education Programs, including translation web site,
- Risk and protective factors,
- Strengths-based assessments,
- Research literature review,
- 1995 DMC Report: Rates of Minority Involvement in the Juvenile Justice System,
- 1996 National DMC report,
- 1997 National DMC update,
- 1999 National DMC conference participation,
- Resources / availability of public defenders,
- Representation and courts workforce composition,
- Juvenile case processing overview,
- Youth Corrections workforce composition,
- Supervision of probationers/custodial juveniles,
- Treatment program availability,
- Community-based services,
- Family services,
- Police – community relations,
- Linguistically appropriate educational materials,
- Reviews of and participation in Task Force public hearings,
- Juvenile Accountability Incentive Block Grant input,

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

- Minority representation on juvenile bench,
- Research consultant progress reports on quantitative segment, focus groups, exit interviews, and social files,
- Minority youth and gangs,
- Utah juvenile justice system personnel recommendations to address racial/ethnic diversity issues,
- Juvenile treatment programs under development on a national level, and
- Hate crimes.

There was, in addition, an exhaustive research project conducted at the behest of the Committee through the University of Utah's Social Research Institute. The research was funded by the Commission on Criminal and Juvenile Justice (CCJJ) and contained significant quantitative and qualitative components designed to provide a longitudinal comparison to the earlier Jenson study. Principal investigator, Russell K. Van Vleet, M.S.W., worked closely with the Committee to complete the project. In October 1999, Mr. Van Vleet presented the results of the research in a draft report titled, *Minority Overrepresentation in the Utah Juvenile Justice System* (see Appendix C). The preliminary results of this report were presented to the full Task Force in September 1999.

Finally, the Task Force received additional funding from CCJJ to examine the practice of stacking charges against an individual youth charged in a particular incident may affect the number of minority youth that are processed through the juvenile justice system. This study is currently underway and results are forthcoming. The Committee will then provide an addendum to this report.

PRE-ADJUDICATION & CLIENT ISSUES

The Disproportionate Minority Confinement Committee (Committee) began with the conclusion that law enforcement has an impact on the introduction of all clients into the juvenile justice system. The relevant questions addressed by the Committee include:

- A. Do police make decisions to arrest or not arrest based on race and ethnicity?
- B. Do police target minorities?

The Committee believes that the answer to both questions can only be determined from officer to officer, from department to department. There are over 130 separate law enforcement agencies in Utah employing more than 3,200 sworn officers. Each law enforcement agency is a separate, autonomous organization operating independent from the other agencies. Each agency is required to uphold the laws of the State of Utah and the local jurisdiction in which they operate. Beyond that, each has its own policy and procedures, priorities, goals, and organizational values.

The Committee concludes that a lack of racial and ethnic diversity in law enforcement agencies can amplify disparate treatment by race/ethnicity. However, members recognize that most Utah law enforcement agencies are continually recruiting so as to diversify their workforce in order to appropriately represent the communities they serve. Law enforcement agencies also would not knowingly tolerate officers making discretionary arrest decisions based on race and ethnicity.

It is important to discuss the reality of the law enforcement process. Investigations are conducted through a process of elimination based on “solvability” factors (e.g., suspect name, vehicle license or description, suspect description). The higher the number of “solvability” factors, the higher the probability of solving the crime. If the suspect who was observed at a crime is described as a

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

male, teenager, brown hair, 5'10", and very thin, then all females can be eliminated; all younger children and older adults can be eliminated; all blondes and redheads can be eliminated; all very tall and very short people can be eliminated; and all heavy people can be eliminated. Thus, if only 0.6% of the population is African American, it only stands to reason that investigating a crime with a male, African American suspect is more easily solved than an investigation with a male, white suspect because 99.7% of the population is eliminated (assuming that 50% of the African American population in Utah is female).

With that process description, the obvious must be stated. In Utah, children of color, based on race and physical appearance, have a significantly greater chance of being identified and subsequently arrested for crimes in which they are involved than do their white counterparts. When only 9.5% of the total population is minority,¹ a circumstance is created where minorities have at least a nine times greater chance of being arrested due to the small size of the selection pool for investigation. Take that 9.5% to total population and reduce it to 5.3% Hispanic, 2.4% Asian or Pacific Islander, 1.2% American Indian, and 0.6% African American and the chance of being arrested, when race is an identifying factor, increases dramatically.

In 1997, there were 302,374 youths ages 10 to 17 in Utah. Minority youths accounted for 9.5 % of the total population.

- Caucasian youths represented 90.5 % (273,649),***
- Hispanic youth represented 5.3 % (16,026),***

¹ Van Vleet, Russell K., et. al., *Minority Overrepresentation in the Utah Juvenile Justice System: Research Project*. October 1999, 6.

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

- *Asian / Pacific Islander represented 2.4 % (7,257),*
 - *Native American youths represented 1.2 % (3,629), and*
 - *African American youths represented .6 % (1,815) of the total youth population in Utah.²*
- Using basic probability and an entirely random selection process and using the above demographic numbers, imagine that each group was a stack of cards, and we had a blank card in each stack.*
- *The probability is that I would pick the blank card out of the African American deck 150 times correctly before pulling it from the Caucasian deck.*
 - *Out of the Native American deck, it is 75 times greater;*
 - *Out of the Asian / Pacific Islander deck, it is 37 times greater; and*
 - *Out of the Hispanic deck, it is 17 times greater.*

We need to recognize that our children of color, because of their race and ethnicity, are at a significantly greater risk of being arrested for the crime they commit than are their white counterparts, because the selection pool, for the purpose of investigation, is so much smaller.

Public hearings conducted by the Task Force over the past year provided testimony indicating incidents of potential law enforcement harassment, abuse, discrimination, and communication breakdown. Certainly the perception of mistreatment by officers demands attention. The hearings confirmed there is a definite need for improved law enforcement training in cultural awareness and

² Van Vleet, 39.

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

cultural competency. The Committee acknowledges that to be successful, changes in training must be sanctioned and supported by the chief law enforcement executives in the state, and the desired results from the training must be enforced by management within all agencies.

The findings and recommendations below are based on public hearing input, the Committee's educational effort, discussion, and input from the Van Vleet and Jenson studies.

LAW ENFORCEMENT

Findings:

- Disproportionality begins at the point of arrest and continues throughout the system.
- **Racial minority youth comprised 9.5 percent of the 1997 Utah youth population but represented 30 percent of all youth arrested for person offenses and 19 percent of all youth arrested for property offenses in Ogden, Salt Lake City and Provo³. A total of 21.8 percent of all youth arrests, in these three cities, are minorities.**
- Both youth and personnel within the courts and post-adjudication segment of the juvenile justice system perceive that minority overrepresentation is due at least in part to racial profiling by police.
- Youth perceive that, at various points in the system, Caucasian youth receive privileges that are not available to minority youth.
- Personnel assert that the stacking of offenses on a single incident is more often practiced by police, probation officers, and school system personnel against youth of color than against non-minority youth.
- ***Our minority communities need to recognize that their youth have a significantly increased chance for arrest if they are involved in criminal behavior based on their physical appearance and race / ethnicity.***

³ In order to replicate Jenson's study using 1993 data, relative risks of arrest were calculated only for Ogden, Provo, and Salt Lake City. People of color (all persons) including White's of Hispanic origin were 14.6% of the populations of Ogden, SLC, and Provo in 1990 (Last date of General Census). Findings cannot be generalized to other geographical parts of Utah.

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

- ***Physical appearance combined with minority racial /ethnic status is a solvability factor for the purpose of criminal investigation.***
- ***The smaller the minority population, the greater the probability of being identified and subsequently arrested when involved in criminal behavior.***

Recommendations:

1. All law enforcement agencies need ongoing, comprehensive cultural competency training. Good cultural training will not change the investigative process based on “solvability” factors. However, it should impact the issues concerning profiling base on race and the questions concerning police discretion to arrest based on race/ethnicity. Training should begin with increased curriculum hours at Peace Officer Standards & Training’s (P.O.S.T.) basic training, continuing education within local agencies, and with all levels of tenure, including support staff.
2. Law enforcement must have the express support of ethnic and minority agencies and advisory councils for the purpose of improvement. These groups can provide input for law enforcement to improve or change their practices in the way they deal with individual minorities or within the minority communities. Law enforcement should work consistently to establish these ongoing relationships through mechanism such as appointing minority members to law enforcement multi-ethnic advisory committees, citizen review boards, and the like, as well as through law enforcement participation in and outreach to ethnic community events and community based organizations.
3. The Chiefs of Police Association, the Sheriffs Association, and P.O.S.T. should provide the leadership and the forum to discuss how to better serve ethnic minority communities, specifically, officer training on cultural competency, the public complaint process, and the recruitment of minority officers.
4. Law enforcement agencies should enhance their current minority recruitment efforts and work with minority communities in order to attract a larger pool of qualified minority applicants.
5. Law enforcement administrators and directors should focus efforts on hiring and retaining qualified minority law enforcement officers in their agencies.
6. ***Minority community groups need to organize and establish mentor / role model programs for youth involved in high-risk behavior.***

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

- 7. Good comprehensive early intervention programs need to be established specifically for minority youth, and the youth need to be enrolled in the programs soon after criminal behavior is identified.*
- 8. Minority youth and their support groups need to learn that youth of color are at a much greater risk of being identified and arrested if they continue high-risk behaviors.*
- 9. An early assessment tool should be designed for all youth entering the juvenile justice system which would provide a formal risk assessment of each juvenile offender. The assessment process should occur soon after arrest and prior to adjudication.*
- 10. The Task Force needs to invite the media to be part of the improvement process. Without media reinforcement, we will continue to struggle communicating to the communities about our goals, successes, and needs. If the media is on the outside, they will continue to report negative and inaccurate information and further divide the agencies that so desperately need to work together.*

LANGUAGE BARRIERS

Findings:

- In the criminal justice system, a person who does not speak English or is not proficient in the English language is at a severe disadvantage without an effective interpreter.
- Properly certified and/or qualified court interpreters are often not available to all components in the system.
- Interpreters are often not available to law enforcement and other agencies outside of the court system.
- Utah is becoming more diverse; thus, the number of non-English speaking/proficient Utahns is rising rapidly.

Recommendations:

1. The Administrative Office of the Courts should take the lead in establishing an interpreter network for the entire criminal justice system. This interpreter network should have full-time, part-time, and on-call interpreters that are available to law enforcement personnel on an as-needed basis. Interpreters should be available 24

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

hours a day, 365 days a year in both urban and rural areas.

2. Funding for the above criminal justice system interpreter network should be provided to the Administrative Office of the Courts through the Utah Legislature.
3. Law enforcement agencies should provide opportunities and encourage officers to learn needed second language skills.

CULTURAL COMPETENCY

Findings:

- There is a need in Utah’s juvenile justice agencies to increase cultural awareness and cultural competency. Agency personnel should be aware of the different behaviors that exist among cultural groups in order to better serve all Utahns.
- Most law enforcement officers are not provided with ongoing training in cultural competency issues.
- Currently, no comprehensive cultural competency training system has been developed for individuals employed in the criminal or juvenile justice system.

Recommendations:

1. Cultural diversity training should address the specific needs of law enforcement. The training should focus on cultural competency, not only awareness and sensitivity. The Chiefs of Police Association, Sheriffs Association, and P.O.S.T. should create a curriculum for law enforcement that relies in part upon the expertise of the joint council chairs of the State Offices of Ethnic Affairs.
2. Initial cultural competency training should be mandated for all law enforcement personnel and on-going training should be offered annually.

DATA COLLECTION

Findings:

- There is a lack of consistency among law enforcement agencies, as well as the courts, and other juvenile justice system entities regarding the collection and dissemination of data for different racial and ethnic groups. This lack of consistency makes ethnicity or race oriented research difficult in Utah. Without knowing the extent of the problem, it is difficult to develop recommendations and solutions.

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

- The Uniform Crime Reporting (UCR) system in Utah does not adequately identify Hispanic offenders. Hispanics are the largest ethnic minority group in Utah. Most law enforcement agencies only report required data for the purpose of UCR or National Incident Based Reporting System (NIBRS). The collection of Hispanic data, as an ethnicity category, is optional not required. Therefore, Utah has no easily accessible arrest data for Hispanics.
- In the juvenile justice system, there are nearly as many different data collection processes as there are data collection points. Much of the juvenile research data was retrieved from the Utah Department of Public Safety (DPS). DPS data are often inaccurate due to software incompatibilities with individual law enforcement entities. Agencies have also purchased and replaced collection and reporting software in the middle of reporting years which can affect data reliability. Some law enforcement agencies who identified the discrepancies have contacted DPS concerning the issue. While DPS has dealt with information in a responsive manner, it has yet to resolve all the differences.
- The Governor’s Office of Planning and Budget (GOPB) does not project populations based on race or ethnicity during non-census years.
- Many law enforcement officers are reluctant to ask clients for racial disclosure due to concerns about offending the client. Occasionally clients are angered or offended by questions requesting race identification and then assert that race is the motivation for the interaction rather than the crime under investigation. Often, to avoid accusations of racial bias, officers resort to visual determination of race and ethnicity or choose to leave the race category blank (e.g., “race unknown”).

Recommendations:

1. The State of Utah, through the Commission on Criminal and Juvenile Justice (CCJJ), should create a task force to examine ways to improve the juvenile justice system data collection process and should include state and local law enforcement in the discussion and planning.
2. The Sheriffs Association, the Chiefs of Police Association, P.O.S.T., and the Bureau of Criminal Investigation (BCI) should give strong consideration to establishing a statewide, standardized law enforcement software which would consistently report crime and arrest information.

***DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM***

3. CCJJ should establish the racial and ethnic minority reporting standard for all juvenile justice agencies in the state and encourage local jurisdictions to use the reporting standard. Incentives should be made for local law enforcement jurisdictions to participate by providing low cost / no cost software, training, and increased potential for sharing information.
4. GOPB should serve as the coordinating agency in educating state agencies about the importance of collecting racial and ethnic data in a consistent fashion.
5. GOPB should collect, report, and project county population data yearly and include breakouts for race, ethnicity, age, and gender.
6. Modify and improve the BCI database. Lack of complete data prevents a thorough understanding of the extent of racial bias in the system.
7. Future research regarding the profiling of minority youth and targeting minority communities by law enforcement should be assessed.

REPRESENTATION & JUVENILE COURT ISSUES

The Representation and Juvenile Courts Subcommittee addressed issues of legal representation as well as the adjudication process. The use of interpreters to overcome language barriers was a major topic of discussion as well as the cultural competency of attorneys, judges and court employees. The Committee discussed many of the perceptions raised at the public hearings, including comments that indicated parents felt left out of and confused by the juvenile justice process, as well as parents who felt that a judge had treated them disrespectfully.

The findings and recommendations below are based on public hearing input, the Committee's educational effort, discussion, and input from the Van Vleet and Jenson studies.

LEGAL REPRESENTATION

Findings:

- It was reported that there is a lack of cultural sensitivity among public defenders. For example, appointed attorneys have made stereotypical assumptions about ethnic families and youth, prior to assessing their cases. In doing so, public defenders advise youth to plead guilty more often, in order to avoid time in court.
- There is no systematic continuing education training on cultural issues nor any cultural competency requirements for public defense attorneys in the juvenile justice system.
- The racial and ethnic composition of juvenile public defenders is predominantly white, non-Hispanic attorneys.
- Racial and ethnic minority families are less likely to feel they are represented appropriately. Little explanation is given to families as to the impact of plea bargains, admission of guilt or due process.
- The stacking of charges of offenses on a single incident by prosecutors has been utilized to ensure arrest of minority youth offenders into detention.

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

- The proportion of minority youth who qualify for the serious youth offender act is disproportionate to their representation in the general population.
- A racial discrepancy exists between the number of juveniles who were charged with offenses that would qualify the juvenile for transfer to the adult system and the numbers who were actually transferred.
- Personnel assert that minorities do not have adequate representation in court since they often do not have the financial means to hire good attorneys.
- The data concerning attorney representation for children of color is of extremely low quality. The Committee assumes, based on informal interviews with juvenile probation officers, that minority children utilize the services of attorneys less often than Caucasian children due to socio-economic reasons. Children of color are more often represented by public defenders. When the Committee reviewed this issue, there were no minority attorneys working in the office under contract to perform public defender duties for Juvenile Court in Salt Lake County.
- Parents and youth report that schools refer minority youth more frequently to court for fights, tardiness, and school absences, than they do white youth.

Recommendations:

1. The Administrative Office of the Courts (AOC) and the Utah State Bar should work cooperatively to provide attorneys and their clients with bilingual court information and information about the representation process. The information should be available in written and audiovisual formats.
2. Cultural diversity training should address the specific needs of attorneys in the juvenile justice system. The training should focus on cultural competency, not only awareness and sensitivity. The Utah State Bar should create a curriculum for attorneys that relies in part upon the expertise of the joint council chairs of the State Offices of Ethnic Affairs. Upon completion of the curriculum, the Utah State Bar should report to the Bar Commission on the status and implementation of its curriculum.
3. Public defender offices and prosecutor offices should focus efforts on hiring and retaining qualified minority law enforcement officers in their agencies
4. All children need equal access to attorney representation. Children of color need culturally competent attorney representation. The process for attorney access should

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

be reviewed and possibly redesigned to improve accessibility to all children who enter the Juvenile Court system, not just the indigent and the wealthy.

5. The Juvenile Court should emphasize the need for a diverse workforce to all offices that provide legal representation in the juvenile justice system – prosecution and defense attorneys alike.

JUVENILE COURTS

Findings:

- Parents of minority youth tend to have little insight and information into the process and proceedings of a court hearing.
- The juvenile court bench is not representative of the population of the state nor of the population that appears before it.
- **Certain minority youth, after factoring in offending histories, do receive slightly more severe dispositions than do other youth. That is, considering only the number of each youths' felonies and misdemeanors, Hispanic youth received slightly more severe dispositions than did all other youths.**
- Over a third (37 percent) of the youths received dispositions that were equal to that recommended by the sentencing guidelines. Of the remaining youths, 48 percent received dispositions that were less than that stated in the guidelines, and 15 percent received dispositions that were more severe than that indicated by the guidelines. (This study was unable to consider the influence of aggravating and mitigating circumstances on youths' dispositions. The Courts are currently collecting these data.)
- The majority of youth and personnel interviewed believe that minority youth are the subject of racial bias.
- Bias occurs when staff consider the use of aggravating and mitigating circumstances, raising tangible differences in the processing of minority and non-minority juveniles.
- Youth perceive that, at various points in the system, Caucasian youth receive privileges that are not available to minority youth.
- There is no consistent intake assessment process to help determine individual needs of youth entering the juvenile justice system. The vast majority of youth who enter the system receive routine sanctions without any real attention being focused on

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

individual needs. First offender programs do work for the majority of the youth. However, some youth need more than first offender programs offer.

- Minority youth who become involved in delinquent behavior need culturally appropriate early intervention to reduce their chance for continued inappropriate behavior.
- Most of the programs available to Juvenile Court intake/probation are designed as *one program fits all*. There are few that are actually designed for minority clientele.

Recommendations:

1. The Utah Sentencing Commission should evaluate the replacement of the aggravating and mitigating circumstances portion of the 1997 juvenile justice sentencing guidelines with a strengths-based approach (see Appendix D). The current use of aggravating and mitigating circumstances is perceived to be weighted against youth of color and youth of lower socioeconomic classes.
2. The Juvenile Courts should focus efforts on hiring and retaining qualified minority juvenile justice system personnel.
3. The judicial nominating commissions and governor should focus efforts on nominating and appointing minority qualified juvenile court judges.
4. The Juvenile Court should expand its operating hours to accommodate work responsibilities of many court clients.
5. Because research has shown that certain behaviors are fairly predictable on the presence of risk factors and lack of protective factors in a child's life, the juvenile justice system should consider using an assessment tool at the early stages of a child's delinquency history to help determine system interventions. Early interventions should be tailored to needs of the youth recipient and not to the needs of the system.
6. An assessment tool used at the early stages of a youth's delinquent history would help probation officers make more constructive sentencing recommendations for minority youth and help judges make better decisions for specialized placement, treatment, and services for the purpose of improving outcome success.

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

CULTURAL COMPETENCY

Findings:

- Court employees reported that it is difficult to consider cultural factors in sentencing and sanctions by probation officers because programs and sentencing options are largely middle-class and majority culture-based.
- The statements made in public hearings indicate that participants, especially parents, perceive that judges have treated them disrespectfully due to their race or ethnicity.
- Juvenile justice system personnel stated that court staff exhibit biases in the areas of cultures, languages, and religions.

Recommendations:

1. Cultural diversity training should address the specific needs of juvenile court employees, including judges, in the juvenile justice system. The training should focus on cultural competency, not only awareness and sensitivity. The Administrative Office of the Courts should create a curriculum for court employees, including judges, that relies in part upon the expertise of the joint council chairs of the State Offices of Ethnic Affairs. Upon completion of the curriculum, the Administrative Office of the Courts should report to the Judicial Council on the status and implementation of its curriculum.
2. The Committee recommends training for juvenile court personnel, including judges, that addresses cultural factors as potential mitigating factors in sentencing and sanctions by probation officers. The training should focus on educating juvenile justice workers on expanding their world views so that juvenile justice sanctions are not one size fits all and also so that cultural is not merely a defense or justification.

LANGUAGE BARRIERS

Findings:

- In the juvenile justice system, parents/guardians are an integral part of the process. Non-English speaking parents who don't receive adequate understanding of the charges and/or sentencing are hampered in helping their child be successful either through the court process or post-adjudication.
- The Juvenile Court should identify language needs early in the court process and document that language need in order to eliminate barriers later in the process.

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

- Significant numbers of non-English speaking/proficient youth are disadvantaged because they do not understand the court system.
- There is a critical need for certified interpreters in the court system.
- Spanish is the only language that currently has state certified court interpreters.
- Interpreter coordinators and judges often select interpreters as to their personal preferences and not solely by skill.
- Language barriers cause and have the potential to cause significant court case scheduling difficulties.
- Although the Juvenile Court has begun to utilize the court interpreter process more successfully, the Committee did receive reports of the Juvenile Courts failing to utilize certified court interpreters, both within and outside of the Wasatch Front.
- The Court Interpreter Code of Professional Responsibility does not permit court interpreters to explain or define the meaning of legal jargon. The Court Interpreter Code of Professional Responsibility has been reported to the Committee as limited and questionable in a client's due process. Oftentimes, the translation of legal jargon does not translate word for word, and at these times the interpretation needs to be done in conceptional methods.
- Non-English speaking families are not offered the same opportunities for diversion programs as their English speaking peers.

Recommendations:

1. The Administrative Office of the Courts should develop standardized court forms and in multiple languages and make them available on an Internet site and in writing at court sites so that information can be accessed easily by court personnel, defendants, and family members.
2. The Administrative Office of the Courts should produce a multi-lingual video tape on the process of the juvenile justice system and providing information on all relevant aspects for the purpose of juvenile court intake. Non-English speaking parents should have the opportunity to receive a comprehensive understanding of the court process to help them make educated decisions. Numerous copies of the tape should be distributed to each Juvenile Court intake and probation office.

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

3. The Administrative Office of the Courts should take the lead in establishing an interpreter network for the entire criminal justice system. This interpreter network should have full-time, part-time, and on-call interpreters that are available to court personnel on an as-needed basis. Interpreters should be available 24 hours a day, 365 days a year in both urban and rural areas.
4. Funding for the above criminal justice system interpreter network should be provided to the Administrative Office of the Courts through the Utah Legislature.
5. The Juvenile Courts should provide opportunities and encourage staff to learn needed second language skills.
6. The Interpreter Advisory Council should review the Court Interpreter Code of Professional Responsibility to assess the effectiveness of due process for non-English speaking defendants.
8. Court administrators and the Interpreter Advisory Council should consider developing full-time positions for court interpreters.
9. The court interpreter certification process should be expanded to other languages in order to meet the growing diversity of Utah.
10. The State Office of Education and the Administrative Office of the Courts should work collaboratively to meet the interpreter needs of both systems.
11. The Interpreter Advisory Committee should create an interpreter use process that mandates the use of certified interpreters whenever possible.
12. The Interpreter Advisory Committee should consider a process to simplify legal jargon for interpreters in an ethical manner.
13. The Administrative Office of the Courts and the Utah State Bar should provide judges and lawyers with training on how to use interpreters effectively.

DATA COLLECTION

Findings:

- The lack of complete data on minorities prevents a thorough understanding of the extent of racial bias in the juvenile system.

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

- There is an incomplete understanding of the relationship between aggravating and mitigating circumstances to dispositional practices of court personnel. Traditionally the system has strengthened sanctions as offending increases. The compounding of offenses and its impact on sentencing, especially for those who enter the system at a young age, needs to be better understood.
- There is an incomplete understanding of the relationship between the alleged practice of stacking of charges and the concept of self-fulfilling prophecies (i.e., the expectation of being arrested and incarcerated because of race, poverty, underclass) on minority youth.

Recommendations:

1. The Juvenile Courts and Youth Corrections should modify and improve the Juvenile Information System (JIS) database to improve coding of race and ethnicity by the courts and law enforcement, and to track socio-economic status (SES).
2. The Juvenile Courts should conduct research in order to understand the relationship of aggravating and mitigating circumstances to dispositional practices of court personnel. The research should examine the extent to which chronicity scores contribute to the overrepresentation of minority youth.
3. The Utah Sentencing Commission should conduct research into the alleged practice of stacking of charges and its relationship to self-fulfilling prophecies. (The forthcoming Van Vleet research will hopefully add to the understanding of these two phenomena.)

POST-ADJUDICATION & COMMUNITY RESOURCES ISSUES

The Post-Adjudication and Community Resources Subcommittee focused on what occurs after a youth is adjudicated. The group also examined community resources to determine their availability and applicability to minority youth needs.

The Van Vleet research documents the risk factors present in ethnic populations, including analysis of factors related to youth, families, and communities. The researchers reviewed the existing situation using models that measure risk based on different theoretical frameworks. Committee members believe that this segment of the research is perhaps the single most important finding in the Van Vleet study and that it demands attention.

The findings and recommendations below are based on public hearing input, the Committee's educational effort, discussion, and input from the Van Vleet and Jenson studies.

RISK FACTORS

Finding:

- When factors besides presenting offense and offending histories are considered there are differences in the processing of minority and non minority juveniles.

Recommendations:

1. The Utah Sentencing Commission should evaluate the appropriateness of a risk-focused sentencing model for juveniles.
2. In conjunction with community resources, the Juvenile Courts should engage in an intervention project targeted at a selected ethnic community. The nature of this project should focus on reducing risk and enhancing strengths at levels characterized

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

by the Hawkins-Catalano model.⁴ Partnerships with community institutions from local government, to civic groups, to local leaders should be ongoing to ensure a substantial impact in this area. Potential partners could include ethnic community based organizations, a local F.A.C.T. (Families, Agencies and Communities Together) initiative, community action program or neighborhood watch program.

3. The Juvenile Courts should conduct an internal experiment involving the question of aggravating and mitigating circumstances. The Committee suggests a secondary “blind” review of recommendations where social information that would identify or suggest the clients ethnicity is deleted, again, in a matched set of minority and non-minority youth. This study would provide an opportunity to see if and how subtle bias creeps into case processing, particularly in the areas of preparing sentencing and placement recommendations.

AGGREGATION OF EFFECT

Findings:

- The Van Vleet research establishes a disparate impact upon certain racial and ethnic minority youth in the juvenile justice system. The findings state that disproportionality begins at the point of arrest and continues throughout the system. It increases as youth progress through the system. It is the highest at the custody entry point (Observation and Assessment), and secure care.
- Personnel assert the alleged practice of stacking offenses on a single incident is practiced by probation officers.

Recommendations:

1. Further review of other related practices should be undertaken by all segments of the juvenile justice system. For example, DCFS is an entry point for about one-third of all youth who subsequently enter the Youth Corrections custody. The Department of Human Services should conduct research in order to review child welfare practices to see if there is an impact of child welfare involvement on “loading.”

⁴ See for example, Hawkins, J.D., Catalano, R.F. & Associates (1992). “Risk and protective factors for alcohol and other drug problems in adolescence and early adulthood: Implications for substance abuse prevention.” Also, Hawkins, J.D., Catalano, R.F. & Associates (1992). *Communities that care: Action for drug abuse prevention*. San Francisco: Jossey-Bass. And, Van Vleet, Russell K., et. al. (1999). *Minority Overrepresentation in the Utah Juvenile Justice System*, 24.

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

2. The Juvenile Courts and Youth Corrections should examine the relationship between custody and socio-economic status. Specifically, research should attempt to establish if a relationship exists between income level and custody decisions.
3. Youth Corrections and the Juvenile Courts should conduct a continued and ongoing review of decision points where discretion is involved. Since aggravating and mitigating decision-making may inadvertently contribute to racial disproportionality, new approaches involving risk measurement should be conducted with consideration given to adverse impact.
4. The Juvenile Courts and Youth Corrections should consider that sanctioning and intervention could be treated as a two-stage process. That is, the level of sanctions (i.e., incapacitation) could be somewhat separated in the decision-making process from the intervention indicated by risk measurement. This would require a more flexible system where the two factors intersect and are combined in a tailored fashion.
5. The development of future policy and practice within the Division of Youth Corrections and the Juvenile Court should occur in an environment that considers the implications for and effect upon minority populations.

YOUTH CORRECTIONS

Findings:

- Juvenile justice system personnel stated that Youth Corrections staff exhibit biases in the areas of cultures, languages, and religions.
- Youth perceive that, at various points in the system, Caucasian youth receive privileges that are not available to minority youth.
- Juvenile justice system personnel, including treatment staff, demonstrated apparently unintentional racial and social class bias during the Van Vleet focus groups.

Recommendations:

1. The Division of Youth Corrections needs ongoing, comprehensive cultural competency training. Training should begin with new employee training as well as provide continuing education for those with all levels of tenure, including support staff.

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

2. The Division of Youth Corrections should enhance its current minority recruitment efforts and work with minority communities in order to attract a larger pool of qualified minority applicants.
3. The Division of Youth Corrections should focus efforts on hiring and retaining qualified minority employees.
4. The Division of Youth Corrections should include cultural competency as one criteria in its review of contract treatment programs. The ability to serve clients and families whose first language is not English should also be considered.
5. The Division of Youth Corrections should collect socio-economic data in its database in order to facilitate a future examination of the relationship of social class to arrest and incarceration.
6. Treatment programs need to improve their content to recognize that cultural and ethnic differences exist and adjust the program content to better serve the needs of all clients served. Culturally and ethnically appropriate mentor programs should be designed and implemented.

SYSTEM EXIT

Finding:

- Most juveniles, including minority youth exit the system prior to involvement in the adult criminal justice system.

Recommendations:

1. The Juvenile Courts and Youth Corrections should conduct qualitative reviews involving youth who successfully exit the system and should consider the following:
 - A) Do similarly situated youth experience remarkably different outcomes?
 - B) Is success tied to “one special adult” as is often cited by youth. Specifically, is the presence of minority staff a critical factor in any or some given outcomes when there is a successful exit?
2. The Juvenile Courts and the Division of Youth Corrections should conduct research in the area of asset building. Some effort should be made to ascertain reasons for the successes the system enjoys. A good deal of research and effort is undertaken to review problems, and in this case, very little is being done to measure what and why certain methods work well.

FINAL REMARKS

When the Disproportionate Minority Confinement Committee (Committee) published its original report in 1995, the recommendations in the report were not implemented. Some of those recommendations are restated in this report. Other recommendations are new to this report. All of the recommendations have been formulated by the Committee in response to the substantial research that has been conducted on the issue of minority overrepresentation in the juvenile justice system. In the end, this report contains a challenging agenda for the juvenile justice system to begin a comprehensive approach to understanding and addressing racial and ethnic justice in the juvenile system.

However, the DMC issue merits more than study. The Committee advocates strongly for the immediate and cooperative implementation of these recommendations. Change must happen in every segment of the system if we are to effectively lessen the disparate impact upon youth of color in Utah. Concerted, systemic efforts will help to address not only racial and ethnic bias but also public perception and credibility of the juvenile justice system. The Committee remains hopeful that this report marks the beginning of a serious and effective implementation process.

**DISPROPORTIONATE MINORITY CONFINEMENT COMMITTEE REPORT
TO THE UTAH TASK FORCE ON RACIAL AND ETHNIC FAIRNESS IN THE LEGAL SYSTEM**

APPENDICES

APPENDIX A:

Racial Disproportionality in the Utah Juvenile Justice System, “Executive Summary,”
by Jeffrey M. Jenson, Ph.D., et. al., February 1995.

APPENDIX B:

Strategic Plan of the Advisory Committee on Disproportionate Minority Confinement, Utah
Commission on Criminal and Juvenile Justice, January 1995.

APPENDIX C:

Minority Overrepresentation in the Utah Juvenile Justice System, “Executive Summary,”
by Russell K. Van Vleet, M.S.W., et. al., November 1999.

APPENDIX D:

Minority Overrepresentation in the Utah Juvenile Justice System, “Appendix I: Strength
Based Approach,” by Russell K. Van Vleet, M.S.W., et. al., November 1999.

APPENDIX E: *Disproportionate Minority Confinement Progress Report*, July 30, 1997.