

Commission Implementation Report



Utah Commission on Racial and Ethnic Fairness
in the Criminal and Juvenile Justice System

January 2003

Preparation and printing of this document financed by the U.S. Department of Justice - Bureau of Justice Assistance and the Utah Commission on Criminal and Juvenile Justice grant numbers: Byrne 2D74 and JAIBG 1M06.

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“Injustice anywhere is a threat to justice everywhere.”
- The Reverend Dr. Martin Luther King, Jr.

“Somewhere and somehow these people are never going to be the same. It's very important to us that people question, that they participate and that they are never afraid to have some principle and stand by that principle.”
-Cesar Chavez

“Counselors at law ought to be apostles of equality. Equality must become a beatitude of personal and professional law.”
-Kenneth R. Wallentine, Administrative Counsel
Utah Peace Officer Standards and Training

To access the Commission Implementation Report in its entirety:

<http://courtlink.utcourts.gov/specproj/retaskforce/index.htm>

The Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System

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* These persons have served on the Advisory Council, have resigned, and have been replaced during the open enrollment period designated in the *Ground Rules*.

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FORWARD by Chair Michael D. Zimmerman

When the Task Force on Racial and Ethnic Fairness in the Legal System was given the go-ahead by the Utah Judicial Council in 1996, I agreed to chair the effort, with much of the day-to-day responsibility in the hands of Judge Tyrone Medley of the Third District Court, and John T. Nielsen, former Commissioner of Public Safety for the State of Utah. At that point, I had little idea of how challenging the project would be. We knew going in that racial and ethnic minorities are over-represented at every stage of the Utah criminal and juvenile justice system, and that the farther along the system one goes, from the first encounter with the police all the way through parole from prison, that over-representation increases. The aim of the Task Force was to determine whether that over-representation was in whole or in part a product of bias. That determination remained elusive throughout the process.

The Task Force was composed of some thirty members, with over one hundred others participating through committees. The membership of the Task Force and the committees was diverse in terms of racial and ethnic makeup, and in terms of employment within and without the justice system. We all learned quickly what some probably knew from the start – that issues of racial and ethnic fairness are among the hardest topics one can address in America. Almost everyone has a view, those views can be quite diverse and quite nuanced, and because the topic is so sensitive, few of us have spent much time talking about it with persons of different racial and ethnic backgrounds. But that quickly changed as we got under way, for we had to talk, and talk candidly with each other about these views. After more than four years of work, the Task Force members probably still held divergent views on the racial and ethnic fairness of the justice system in Utah. Some still saw the over-representation of minorities in the system as a result of conscious bias; others, as a result of unconscious bias; while for yet others, it is a consequence of socio-economic factors alone. But I suspect that each of us came away with a more subtle understanding of the problem than we had before, and were far more conscious of our own biases, no matter how well concealed.

On a concrete level, the members of the Task Force were able to come together to unanimously approve over one hundred recommendations for enhancing Utah's justice system in ways that would go a long way toward ensuring that it had the capacity for dealing fairly with all citizens, regardless of their racial or ethnic differences. Whatever their individual views, the members shared the understanding that fairness is a basic premise of the justice system. The goal is a fair process that produces a fair result, a system that treats similarly situated people similarly, and one that does not distinguish among persons because of irrelevant factors, such as race or ethnicity. That shared vision underlies all the recommendations of the Task Force. Most of those recommendations do not make any assumption about the existence of intentional discrimination. Rather, they are based on the premise that conscious awareness of the potential problem of bias is the best prophylactic against it.

One of the truly encouraging experiences of the Task Force process was to see the degree to which the people in charge of Utah's justice system were largely constructive and willing to participate in the open and honest dialogue necessary to address the problems associated with

racial and ethnic bias. Initial resistance to suggestions gave way to a willingness to be innovative and to change the way things were done. And in some cases, those running the system displayed real initiative in rooting out ways in which the system operated unconsciously to disadvantage members of racial, ethnic, and linguistic minorities. This willingness to address the problem bodes well for the future.

The Task Force's final report acknowledged that the job of ensuring racial and ethnic fairness in the justice system, like the task of ensuring it in the larger society, is never done. It requires ongoing, conscious effort by all players in the system, including the minority communities. To that end, the Task Force made one of its prime recommendations the establishment of a commission composed of members of the minority communities and representatives of the justice system agencies. That commission's task would be to follow up on the recommendations of the Task Force, to report to the public on their implementation, and to suggest changes in the recommendations and new approaches to the problems of bias as they revealed themselves. The Commission was organized following the issuance of the final Task Force report. The Commission report which you read today is the first of the follow-up reports envisioned by the Task Force. If the progress of the Task Force is not to be lost, it will not be the last such report.

Like the Task Force, the Commission's membership reflects a diverse racial and ethnic composition, and includes representatives of affected communities and justice agencies. Like the Task Force, it has taken some time to gain its footing and assume ownership of its role. But with this publication, it is under way. Some of us who served on the Task Force assisted the Commission in getting established and in coming to understand the history and methods of the Task Force. We will be soon stepping aside and turning the leadership of the Commission over to newer members. Judge Medley, John T. Nielsen, and I will be leaving the Operations Committee. It is my firm belief that turnover in leadership is a positive good. Fresh eyes bring a fresh perspective, and our replacements are more than qualified to take over. I expect to see them continue to pursue vigorous implementation of the Task Force recommendations, and to look for new and creative ways to achieve the objective of a justice system that is fair to all, regardless of race or ethnicity.

Personally, I want to thank all those with whom I have had the privilege of working on these issues, including all the members of the Task Force and the Commission who were willing to participate in what was at times a bruising process. Not the least of those who deserve thanks are Sandra Kinoshita, our present Director, and Jennifer Yim, the Director of the Task Force. They have been great diplomats, and good taskmasters. Judge Medley and John T., two old friends with quite different backgrounds and perspectives, have worked smoothly to bring all the necessary players to the table and make all of them feel as comfortable as people ever can be with this topic.

As for myself, it has been a humbling privilege to participate in the Task Force process, and now in the establishment of the Commission. I will say now as I have said before, that this is the most difficult topic with which I have dealt. It is one that is never "solved", and bias is

something from which not very many of us are exempt at some level. The tendency to see differences between us based upon any number of characteristics, not the least of which are race and ethnicity, seems inherent to humans. It is a short step from seeing differences to giving them supposed significance, even subconsciously, and then acting on them. The legal system has a high aspiration: to treat people as equals based only on relevant behavioral characteristics. Our natural tendency to see distinctions among us based on other factors and to act on them is contrary to this aspiration. It is a tendency with which no one is comfortable, of which no one wants to be reminded, and upon which no one wants to be accused of acting. Yet we must be constantly on watch for that tendency, lest it subvert our higher purpose. Maintaining this vigilant watch is a task that must be done sensitively, but it is essential. Unless we address this tendency on a daily basis, a justice system can soon come to be undeserving of its name. I trust that the difficult task the Commission has undertaken will continue to receive necessary support from the dedicated professionals within the justice agencies, from the minority and majority communities, and from those who have the ability to ensure its continued financial viability.

Michael D. Zimmerman

FORWARD by Judge Tyrone E. Medley, Co-Chair

Approximately six years ago the Utah Judicial Council commissioned the Task Force on Racial and Ethnic Fairness to examine issues of fairness within Utah's criminal and juvenile justice systems. The judiciary and the Judicial Council sit at the head of the table of Utah's criminal and juvenile justice systems. In our democratic society, the judiciary represents the spirit and reality of fairness and justice. The Judicial Council's leadership from the beginning has been and will continue to be an indispensable essential element for success of the Task Force and Commission's implementation efforts. The judiciary's leadership demonstrates the importance of these issues and the judiciary's commitment to fundamental fairness.

The Task Force's efforts culminated two years ago with the release and publication of Racial and Ethnic Fairness: Report on the State of the Criminal and Juvenile Justice System. This report was an enormous collaborative effort resulting in multiple unanimous policy and procedural recommendations designed to improve the criminal and juvenile justice system's ability to deliver fundamental fairness and to prepare the criminal justice agencies for the inevitable challenges which lie ahead to better meet the current and future needs of all of the citizens of the state of Utah with its ever-changing complexion and diversity.

The Task Force Report included a proposal for creating a Commission to monitor, evaluate and assist in the implementation of the Task Force recommendations. The Utah Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System held its first official meeting in September 2001. The Commission's first year has been largely transitional in nature, focusing on the establishment of goals and priorities, mission statements, new leadership and organizing a 48-member Community Advisory Council to the Commission. Consequently, the Commission's first annual report relies substantially upon the self-reporting of the criminal justice agencies' progress to date as to implementation of the Task Force recommendations. Future Commission annual reports must and should independently assess and critically evaluate criminal justice agency implementation efforts.

Implementation is a critical stage of this project. Implementation of the Task Force recommendations can accomplish institutional change, accountability, encourage community participation, community empowerment and responsibility. The implementation phase in all likelihood will be a long-term process, there are no overnight quick fixes and it will take time to build bridges, coalitions, and create and maintain a climate for progressive change.

I am very optimistic about the future success of this project as the implementation phase moves forward. The leaders of the various criminal justice agencies have placed a high priority on implementing the Task Force recommendations. These same leaders, to their credit, remain at the table, in good faith, with lines of communication open and with a strong commitment to ensuring fairness in the criminal and juvenile justice system.

It must be clearly stated, however, that studies are meaningless without action. It has been a long road traveled to get this project to where it is today, yet at the same time the most important part of the journey lies ahead. Generally speaking, in our community today, the level of denial and ignorance around bias issues remains high and can be exacerbated when Commissions move into the implementation phase. No one, however, should question the importance of ensuring that our criminal and juvenile justice systems, including the courts, truly function as fair, neutral and just. The work of the Commission may not always be comfortable for some, but in the end the work will help ensure that the criminal and juvenile justice system is actually and perceived to be fair to all of the people of the state of Utah. Through the Task Force's efforts and recommendations, we as a criminal justice system have established that we can talk the talk. Through the Commission's and criminal justice agency's implementation efforts we as a criminal justice system have an opportunity to prove that we can also walk the walk. From what I've seen to date, I am encouraged to believe we can. The alternative should be unacceptable to everyone.

FORWARD by John T. Nielsen, Co-Chair

Much has happened since the beginning of the Task Force on Racial and Ethnic Fairness in the Legal System. We have previously published a Task Force Report outlining our findings and expectations in order to insure fairness to all who come before the courts or are otherwise affected in any way by the criminal justice system of this state. We were justly proud of this effort and believe that, through the input of hundreds of individuals, we have initiated processes, policies and strategies to accomplish the broad goals of the Task Force.

We have now moved into an equally important phase of this project, that of implementation. It will be the purpose of this report to account to the citizens of the State of Utah as to what has been accomplished in the two years since the culmination of the Task Force's work and the publication of the report.

We are pleased to report that, in our judgement, much has been accomplished. Various components of the Criminal Justice System have taken the recommendations of the initial report seriously and have systematically reported back to the Commission their efforts and accomplishments. However, I believe it is fair to suggest that there remains much to be done. Most assuredly continued vigilance by these criminal justice agencies is important to assure the expected accountability to the citizens of the state. Indeed, the purpose of the implementation effort is to make certain that hard work accomplished in the years the first task force was active does not go unfulfilled. It will be the continuing task of the Commission to make certain that the appropriate level of accountability is maintained and reported.

As a founding co-chair and as my tenure of the initial effort winds down, I would express to all who read this report my continued commitment to fairness in the criminal justice system and my personal vigilance to make certain that the goals and commitments previously made are fulfilled.

EXECUTIVE SUMMARY

The Utah Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System was formed in September 2001 as a central oversight body for implementation of the recommendations from the Utah Judicial Council's Task Force on Racial and Ethnic Fairness in the Legal System. The Task Force had developed partnerships between agencies and the community. These bridges became the basis to form a commission that would continue the effort to improve justice for all people. Membership of the Commission included a transition team from the Task Force, judges, law enforcement officials, prosecution and defense attorneys, juvenile and adult corrections officials and elected representatives from the ethnic communities.

The mission statement of the Commission was developed by members through an involved process of consensus building. The diverse perspectives of the members required considerable discussion before the following mission statement was finalized in July 2002.

The Utah Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System is collectively committed to promoting research, legislation and policies that strive to:

- 1. achieve equality and justice for all people,*
- 2. encourage implementation of equitable practices, and*
- 3. institutionalize accountability*

within the Utah Criminal Justice System. The Commission will provide leadership by coordinating communication processes and partnerships within and between the public and private sectors. The Commission will also serve as a forum for examining progress, evaluating results, and providing public reports.

Implementation of Change

At the Commission Orientation meeting held October 1, 2001, Commission members convened as representatives of their respective agencies and communities. The members individually resolved to facilitate and provide access to relevant data sources and personnel to track implementation efforts, conduct research and support other activities deemed necessary to further the Commission's mission, and to contribute to the Commission's annual report on agency and system-wide implementation efforts. This first annual Commission Implementation Report is an individual agency self-report and does not include evaluation by either the agency or the Commission as to the effectiveness of the implementation. Statements about the progress are the conclusions of the agencies. Due to the nature of the organization of some agencies, progress reports may be uneven and inconsistent. Although the mission statement does include examining progress and evaluating results, this portion of the mission statement will be addressed in subsequent reports.

Agency Implementation

This year has been a transition period for the Commission. Each member agency has hosted a Commission meeting at the agency site, where applicable, to report progress on each of the eight Task Force recommendation areas: Recruiting and hiring to ensure a skilled diverse workforce; the Training in each segment of the criminal and juvenile justice system to achieve cultural competency; providing quality Interpreting to those with limited English proficiency; Community Resources/Outreach to ensure racial and ethnic fairness in representation within the criminal and juvenile justice system; the availability of user-friendly Complaint Processes allowing individuals to file complaints in a non-intimidating environment; Administration efforts to ensure non-tolerance of racial and ethnic bias or discrimination in agencies; collection of race and ethnicity Data to be used solely for the purpose of system-wide research; and Research for full understanding of the existence or extent of racial and ethnic bias.

Workforce: Recruiting/Hiring

The need for workforce diversity in all areas of the legal system was an issue raised. Inherent in the recommendation was the need to not only hire, but actively recruit from the minority communities in order for agencies to be responsive to cultural and language needs. Agencies reported that actions have been taken in this area and recruitment procedures have been established or are in progress.

Training

A cultural competency training curriculum was developed and made available to the agencies for training purposes. Agencies have either used the program or developed their own. The training of current employees is reported to have been completed or in progress by most of the agencies, but have been limited in some instances due to budgetary constraints. Newly-hired employees are required to take the competency training as part of the training for their positions.

Interpreting

The legal system addressed the need for quality interpreting services in agencies that are in direct contact with individuals who enter the system. Efforts have been affected by the limited availability of qualified individuals, budgetary constraints, and the resources to train individuals in a second language.

Community Resources/Outreach

Recommendations for building partnerships with Community Resources and Outreach through the State Office of Education, the Judicial Council's Public Outreach Committee, the Minority Bar Association, the Utah State Bar and communities of color are an ongoing activity. Agencies have reported a variety of actions taken to improve their outreach programs and continue to work with the community directly and with community organizations.

Complaint Processes

Concerns raised by the public for adequate and user-friendly complaint processes underscored a need for a written complaint review process. Law enforcement agencies, specifically the Chiefs, the Sheriffs and POST, report the existence of procedures at agency levels. However, these processes are not system-wide. The establishment of formal processes by county and citizen review boards are in progress.

Administration

Many of the Task Force recommendations require policy changes and management decisions to affect change. These changes are administrative and require budgetary and jurisdiction capabilities. Implementation activities are reported to be in progress.

Data

The need for consistent race and ethnicity data throughout the criminal and juvenile justice system became apparent in the effort to determine racial and ethnic fairness in the judicial system. Efforts to collect the data for purposes of statistical information, with necessary precautions to ensure appropriate use, must be maintained. The implementation of procedures to collect and track data are not consistent throughout the system, but most agencies have reported initial progress. The Racial Profiling law is expected to provide additional data.

Research

Research to obtain a full understanding of the existence or extent of racial and ethnic bias is an ongoing process. The Utah Commission on Criminal and Juvenile Justice has reported the completion of research concerning the alleged practice of the stacking of charges to determine whether minorities receive more charges than non-minorities. The study results have been delivered to the Juvenile Disproportionate Minority Confinement Committee and the Commission's Research Subcommittee. Other research topics either are in progress or have yet to be implemented.

For detailed information from each of the agencies, please **see *Agency Progress at a Glance and the Appendices***.

Systemic Implementation

The Commission, in recognition of the need for ethnic data collection, participated in the successful enactment of HB 101, Racial Profiling bill during the 2002 General Legislative Session. The bill was important to enhance the ability of agencies to gather data solely for the purposes of research. The Commission officially supported the concept of the bill as initially presented to the Commission. Members attended legislative hearings, sent letters of support, and met with key legislators to assist in the passage of the bill.

Support was also extended to a diversity pledge set forth by the Utah Minority Bar Association in conjunction with the law schools at the University of Utah and Brigham Young University.

The pledge recognizes the need for greater participation of minority attorneys and individuals in the legal system and encourages Utah law firms to diversify their workforce.

2003 Commission Subcommittees

The Commission recognizes the dynamic nature of the complexities of working to achieve racial and ethnic fairness. This requires a continual reexamination of the implementation process. Therefore, the Commission formed five Subcommittees to provide a deliberate and focused attention to specific collective goals. These subcommittees are: Community Involvement; Complaint Processes; Indigent Defense; Outreach/Employment and Recruitment; and Research.

Each of the Subcommittees articulated a mission/focus and action plan for the coming year and identified at least three priority areas for the consideration of the Commission. From the submitted priorities, the Commission identified four priorities to be the focus of the Commission's work for 2003. The priorities address issues concerning the new Racial Profiling law, communication between the community and the Commission, minority recruitment, and formalizing complaint processes:

1. Collect and analyze data in response to the new Utah law on racial profiling. This priority includes education about the purpose of the law and about data limitations.
2. Develop strategic plans/goals to bridge, facilitate tensions, and integrate communication processes and information exchange between the Commission, Advisory Council, and community.
3. Strengthen and expand the pool of applicants of color.
4. Review current complaint processes, develop a standardized complaint form, and establish a complaint notification process to the Commission.

For complete information concerning the subcommittees and their individual priorities for 2003, please see **2003 Commission Priorities and Subcommittee Plans**.

2003 Commission Leadership

In September 2002, the Commission approved its leadership slate for the new year to be effective January 1, 2003. Judge William Thorne was selected as Chair, and Sid Groll, Keith Hamilton and Leticia Medina will serve as Co-chairs. The Operations Committee was also enlarged to include a representative from each of the Subcommittees established at the July Retreat. The Commission will continue to report progress annually through the publication of an annual report.

Citizen Advisory Council to the Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System

The Operations Committee, recognizing the need to include members of the various ethnic communities and the community-at-large, formed an Advisory Council of community volunteers. With referral assistance from the State Offices of Ethnic Affairs in July 2001, nearly five hundred invitations were sent statewide to community leaders and ethnic organizations. These requests for nominations and volunteers began the formation of the Citizen Advisory Council to assist in the oversight of the implementation process. Task Force members were also sought for participation. On August 27, 2001, fifty volunteers were invited to an Orientation Meeting and to formally organize the Advisory Council to the Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System. The membership then elected seven of their peers representing the Hispanic/Latino, African American, American Indian, Asian American, Pacific Islander and community-at-large to serve on the Commission and as liaisons between the Commission and the Advisory Council.

The Advisory Council will provide an avenue for creating and maintaining dialogue between the Commission and communities through citizen participation in monitoring the progress of institutional change throughout the system. The Council will also provide a forum to bring to the Commission information about the realities of the experiences of the various ethnic communities with the justice system and promote an exchange of dialogue to enable better understanding of the justice system in the larger community.

During the introductory year of the Advisory Council, meetings consisted of Commission reports, legislative updates when applicable, and Council business. Advisory Council members served an active advisory role and provided communication between the system agencies and Utah's racial and ethnic communities. Commission members and leaders throughout the Utah legal system also provided education and resources at each meeting. During the year, the Council identified areas important for ethnic community involvement.

The Ground Rules Subcommittee created the rules of governance for the group. Approved by the Advisory Council in January 2002, the Ground Rules address membership, attendance, roles and responsibilities, voting, and leadership issues.

The Judicial Composition Subcommittee examined the racial and ethnic composition of the judiciary and the Judicial Nominating Commissions throughout the state. Collaborating with the Hispanic Advisory Council and the Utah Minority Bar Association, the Subcommittee conducted a regional campaign to encourage and assist advocates of color to apply for openings on Judicial Nominating Commissions. Members also met with the governor to express concerns and provided testimony at the Judicial Nominating Commission meeting during a judicial vacancy.

On November 5, 2002, the Advisory Council elected its leadership for 2002 - 2004. The Executive Committee consists of Chair Mary Daniels, Vice-Chair Larry Houston, Secretary Jah-

Juin Ho, and At-Large members Jan Saeed and Deidre Tyler. Commission ties will continue through the seven members elected at the beginning of the year.

Conclusion

The Commission on Racial and Ethnic Fairness in the Legal System recognizes that just as the issues surrounding ethnic and legal fairness are not static, working to achieve racial and ethnic fairness is an ongoing process that brings new issues and complexities. In the process of implementing Task Force recommendations, the Commission found that other issues naturally arose which required further attention. Some recommendations were deemed not plausible as written or other alternatives were found to be more appropriate and effective.

Complete and detailed information about the Commission, including its mission statement, membership, links to Agency web pages, and access to Commission meeting minutes are available on the internet. In addition, the full Commission Implementation Report can be found in its entirety at the Commission world wide web site:

<http://courtlink.utcourts.gov/specproj/retaskforce>

INTRODUCTION

It has been two years since the culmination of the Utah Judicial Council's Task Force on Racial and Ethnic Fairness in the Legal System and the publication of *Racial and Ethnic Fairness: Report on the State of the Criminal and Juvenile Justice System*. Through testimonies at Public Hearings, Task Force and Subcommittee meetings, and collaborative dialogues with key individuals, literally hundreds of Utahns participated in the examination process. Multiple recommendations at the policy and procedural level were unanimously endorsed by the Task Force. The implementation phase officially began in September 2001, with the inaugural meeting of the Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System. However, many legal system agencies began implementation prior to the release of the Task Force report. The efforts continue today with a firm commitment for the future.

We are particularly proud of our efforts because they represent and are supported by a multiplicity of voices. Both the Task Force and now the Commission exemplify the partnership between the legal system agencies and the residents of our state. It is our sincere intent that we continue to work together within the entire legal system to enact and institutionalize equitable change. Racial and ethnic fairness are not issues to be addressed by a select few. Rather, they require the commitment of all individuals who value justice. We are all stakeholders and benefactors of systemic fairness.

This Annual Report documents the work and accomplishments of the Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System. It tracks the implementation of the Task Force recommendations and suggests new directions to increase access and fairness. To understand where we are today, a brief history will offer context and affirmation of the five-year foundation on which the Commission stands.

HISTORY

The Utah Judicial Council's Task Force on Racial and Ethnic Fairness in the Legal System¹

On March 6, 1996, the Task Force was convened by the Utah Judicial Council to examine issues of racial and ethnic fairness within Utah's criminal and juvenile justice systems. The Task Force consisted of both those who administer justice and members of Utah's ethnic communities. Chaired by then Chief Justice Michael D. Zimmerman, the Task Force's daily operational management was directed by co-chairs Third District Court Judge Tyrone E. Medley and John T. Nielsen, senior counsel to Intermountain Health Care and chair of the Utah Sentencing Commission. Ms. Jennifer M. J. Yim served as Executive Director of the Task Force. The

¹ Taken from Racial and Ethnic Fairness: Report on the State of the Criminal and Juvenile Justice System, September 2000

membership included community leaders, judges, law enforcement officials, prosecution and defense attorneys, adult and juvenile corrections officials.

The Task Force focused full attention on the need to assure racial and ethnic fairness throughout the Utah justice system. The membership unanimously agreed that bias cannot exist if justice and fairness are to be served. The Task Force embarked upon twenty research and needs assessment projects. It further conducted twenty-two statewide Public Hearings to gather testimony on the public experience with the legal system. Critical partnerships were established among the Task Force members, through agency collaborations, and with the community. These alliances are pivotal to the future efforts to ensure racial and ethnic fairness.

The diverse backgrounds and perspectives of Task Force members led to considerable differences of opinion. Much focus was given to whether racial and ethnic bias exists within our criminal justice system, and the role any such bias play in producing what is an obvious disproportionate number of people of color in the system. Extensive resources were devoted to research projects and a needs assessment, the differentiation between the perception and the reality of bias, and the constraints imposed on bias research by the lack of useful data. After more than four years of ways of research and analyses, the Task Force culminated with its final report and recommendations to increase racial and ethnic fairness throughout the system. The Task Force championed nearly one hundred recommendations, and developed partnerships between justice agencies and the community to enable and sustain their implementation.

Chief among the Task Force recommendations was the creation of a standing commission comprised of representatives of justice agencies and members of the affected communities to follow up and report on the progress of implementation of the Task Force's detailed recommendations. Without this follow up, the years of work would have been wasted, hence, the formation of the Commission.

Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System

On September 7, 2001, the inaugural meeting of the Commission marked the official start of the implementation of the Task Force recommendations. Although many agencies had already begun to incorporate changes, this was the beginning of the collective efforts of the Commission. Chaired by former Chief Justice Michael D. Zimmerman, the Commission was again co-chaired by Third District Court Judge Tyrone E. Medley and John T. Nielsen, senior counsel to Intermountain Health Care and chair of the Utah Sentencing Commission. Ms. Sandra M. Kinoshita served as Executive Director of the Commission, while the Task Force Operations Committee and leadership continued in the same capacity for the inaugural year of the Commission. This "Transition Team" provided the history and consistency with the Task Force, while the membership was also infused with new members and new substantive ideas. The membership was chosen for their commitment and ability to incorporate change and institutionalize fairness in the criminal and juvenile justice system.

The Commission is intended to be an independent body comprising representatives from the implementing entities. Membership includes leaders from justice system agencies and community-based organizations, many who also served on the initial Task Force. Although each agency is responsible for their own implementation of Task Force recommendations, the Commission will publish an Annual Report of its progress and make modifications in the recommendations. In three to five years, the Commission will further evaluate its effectiveness and the viability of community ownership of the implementation process.

This first year of the Commission served as a transitional period to establish a foundation for the implementation process. Commission agencies and organizations presented reports on their implementation progress at monthly meetings while also educating members about their roles and responsibilities within the system. Although the highest priority is placed upon implementing Task Force recommendations, the Commission also worked collectively on projects to increase racial and ethnic fairness in the legal system. Continuing the Task Force's commitment to community collaboration and input, the Commission formed a citizen Advisory Council to partner in the systemic change efforts.

Advisory Council to the Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System

With referral assistance from the State Ethnic Offices, nearly five hundred invitations were sent statewide in July 2001. These letters were delivered to community leaders and ethnic organizations as a call for nominations and membership on a citizen advisory council to assist in the implementation of racial and ethnic fairness initiatives in the legal system. In addition, some Task Force members volunteered to participate on the council, eager to ensure that the work of the Task Force be actualized. The Advisory Council works together with the Commission, providing a critical role in the eventual transition from governmental possession to public ownership.

The purpose of the Advisory Council is to provide communication between the community and the Commission. The Advisory Council actively advises the Commission and its members on Task Force recommendation implementation and related efforts. Furthermore, subcommittees are formed to address timely and pertinent issues including judiciary demographics, system education, testimonials to government-appointed committees, and the self-governance of the Council.

On August 27, 2001, the Advisory Council to the Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System held its Orientation Meeting for the forty-eight volunteer members. Within days, the membership elected seven of their peers to serve as Commission members. Five of these Commission seats are race-specific, while the other two designees represent the community at-large.

RECOMMENDATIONS

The implementation of Task Force recommendations remains a priority for all Commission agencies. Upon joining the Commission, members sign a resolution to implement the recommendations to influence institutional change at the policy and procedural levels. All of the Task Force recommendations were authored and endorsed by representatives throughout the legal system and community. Although they are not a checklist for cultural competency, the recommendations represent the voices of hundreds of Utahns, system agencies, and four years of intensive examination. The Commission has accepted the responsibility to implement these changes and will be held accountable for progress through Annual Reports.

Task Force Recommendations fall into eight categories: Workforce: Recruiting/Hiring, Training, Interpreting, Community Resources/Outreach, Complaint Processes, Administration, Data, and Research. Most recommendations are directed to specific agencies, while a few are intended for system-wide implementation. It is the responsibility of each agency to implement their specific recommendations.

Task Force recommendations are conceptually clear in their intent. However, legal system agencies are encouraged to make necessary adjustments to the process of accomplishing each action item. For instance, agencies should ensure that the process is applicable to their clientele, maximizes usefulness and efficiency within the organization, and creatively challenges the realistic confines of their resources. If a recommendation cannot be immediately implemented in full, agencies are asked to do so incrementally. Detailed accounts of agency efforts are available in the appendices of this Annual Report.

As a central oversight body for implementation, Commission members are able to see mutual needs, initiate collaborative efforts, and track the progress of institutional change throughout the system. Monitoring implementation offers a sense of accomplishment, accountability, and serves as a form of checks and balances. We are aware that Task Force recommendations are not a checklist for cultural competency. Rather, we live in a dynamic world of changing needs and expectations that requires us to evolve as new challenges arise, and as weaknesses in our current practices are revealed. Upon joining the Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System, each member committed to the implementation of Task Force recommendations and the continued improvement of our justice system for all people.

2002 Annual Report

The Commission is pleased to present this first annual report. A limited number of Executive

Copies have been printed for distribution. The Executive Copy contains only a portion of the full report. Please refer to the internet for the 2001-2002 Commission Implementation Report in its entirety. The world wide web address is:

<http://courtlink.utcourts.gov/specproj/retaskforce/index.htm>

For additional background information, you can access the Task Force Final Report, implementation information, and supporting research at this same internet site.

2003 Commission Priorities and Subcommittee Plans

The Commission on Racial and Ethnic Fairness in the Legal System recognizes that just as the issues surrounding ethnic and legal fairness are not static, working to achieve racial and ethnic fairness is an ongoing process that brings with it new issues and complexities. In the process of implementing Task Force recommendations, the Commission found that other issues naturally arose which required further attention. Some recommendations were deemed unworkable as written or other alternatives were found to be more appropriate and effective.

To better address implementation, the Commission formed five Subcommittees to aid its ability to provide deliberate and focused attention in specific areas that would support its collective goals. The Subcommittees are Community Involvement, Complaint Processes, Indigent Defense, Outreach/Employment and Recruitment, and Research.

Each of the Subcommittees articulated a mission/focus and action plan for the coming year (see individual reports). Each subcommittee also identified at least three priority areas that were brought to the Commission for consideration. At the Commission's October 2002 meeting, members voted on four priorities that will be the focus of the Commission's work for the 2003 calendar year.

Commission Priorities

1. Collect and analyze data in response to the new Utah law on racial profiling. This priority includes education about the purpose of the law and about data limitations.
2. Develop strategic plans/goals to bridge, facilitate tensions, and integrate communication processes and information exchange between the Commission, Advisory Council, and community.
3. Strengthen and expand the pool of applicants of color.
4. Review current complaint processes, develop a standardized complaint form, and establish a complaint notification process to the Commission.

Prioritizing the Commission's collective efforts will allow for the maximum benefit of collaboration. Influence and expertise are shared, while energies and resources are focused. The action plans to achieve these goals are generally outlined in the following subcommittee reports. Additionally, the Commission will continue to develop steps to accomplish each priority in a meaningful and efficient manner.

Subcommittee Plans

Community Involvement Subcommittee

Mission/Focus

The Community Involvement Subcommittee's goal is to devise a framework to improve communication processes between and among the Commission, the Advisory Council, and the community. The intention is to stimulate both the justice agencies and members of the community to take actions that will heighten awareness of issues of racial and ethnic bias in the criminal and juvenile justice system and present measures/steps that can be taken by the agencies and the community to address conditions of inequality in the Utah judicial system.

Membership

Carolina Rosas Webber (Chair), *Doctoral Student/Teaching Fellow, University of Utah*
Brent Johnson, *General Counsel, Utah Administrative Office of the Courts*
Dan Maldonado, *Deputy Director, Utah Division of Youth Corrections*
Haruko Moriyasu, *Director, Asian Pacific American Studies, University of Utah*
Joe Tafua, *President, Southern Utah Polynesian Association (SUPA)*
Michael D. Zimmerman, *Former State Supreme Court Justice and Attorney, Snell and Wilmer*

Current Activities

The subcommittee will target local community leaders to assist in coordinating town meetings, as well as refine strategic plans to work with the general public at large. The subcommittee will also develop strategic plans to bridge, facilitate tensions, and integrate communication processes and/or information exchange between the Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System and the Advisory Council. By targeting key issues that emerged during the Task Force Public Hearings, the subcommittee will develop platforms for discussion.

Plans for 2003

The long-term goals for 2003 - 2004 include the coordination of town meetings which will mirror the Public Hearings conducted by the Task Force. Targeting community councils, chambers of commerce, private and public organizations to discuss the cost of crime is another priority.

Complaint Process Subcommittee

Mission/Focus

The focus of the Complaint Process Subcommittee is to gather information to track and facilitate criminal justice complaints of racial and ethnic bias.

Membership

Leticia Medina (Chair), *Director, State Office of Hispanic Affairs*
Kal Farr, *Executive Director, Utah Chiefs of Police Association*
Sid Groll, *Director, Utah Peace Officer Standards & Training*

Keith Hamilton, *Board Member, Utah Board of Pardons and Parole*
Honorable Tyrone Medley, *Third District Court*
Joan Smith, *Executive Director, National Conference for Community and Justice*

Current Activities

The purpose of this subcommittee is to provide a clearinghouse for complaints of racial and ethnic bias from the community. Complaints will be reviewed and relayed to the appropriate agency for response. The subcommittee will track complaints to assess trends.

Plans for 2003

The Complaint Process Subcommittee will develop a standardized complaint form, with the intent of developing a triplicate form that will aid the tracking process. They will also review the complaint process of criminal justice agencies to increase the public awareness of current practices. The subcommittee will then establish a complaint notification process to the Commission in efforts to increase awareness of trends in criminal justice complaints.

Indigent Defense Subcommittee

Mission/Focus

Indigent defense is a political issue that varies severely by ownership, financial resources, and location throughout the state. The focus of this subcommittee is to serve as a vehicle to heighten awareness of indigent defense issues, needs, and the process from a client perspective. Advocacy and education will target ethnic communities, the public at large, attorneys, and policy makers.

Membership

Anthony Smith (Chair), *Health/Behavioral Health Director, Indian Walk-In Center*
David Biggs, *Assistant Director, Salt Lake Legal Defender Association*
Paul Boyden, *Executive Director, Statewide Association of Public Attorneys*

Current Activities

The subcommittee is conducting a limited and informal needs assessment of attorneys and agencies. The Native American population has been identified as the first ethnic community to be assessed.

Plans for 2003

Plans for 2003 involve investigating the state funding of public defenders offices outside of the Wasatch Front. The subcommittee will continue to informally research and collect data to determine the extent of the issue. Further intentions include working with the Outreach Subcommittee to recruit more people of color to work within the criminal justice system and conducting community outreach and education.

Outreach/Employment and Recruitment Subcommittee

Mission/Focus

The focus of this subcommittee is to pro-actively take steps to increase the employment of minorities in all law enforcement and justice related occupations. This will involve identifying existing barriers to both recruitment and employment and then developing specific strategies for overcoming such barriers.

Membership

Dan Becker (Chair), *State Court Administrator, Administrative Office of the Courts*

Mike Chabries, *Executive Director, Utah Department of Corrections*

Robert Flowers, *Commissioner, Utah Department of Public Safety*

Sheriff Brad Slater, *President, Utah Sheriffs Association*

Honorable William Thorne, *Utah Court of Appeals*

Current Activities

The subcommittee has decided to use focus group sessions in order to better understand what barriers exist to recruitment and employment and solicit suggestions for improving minority employment. The following groups have been identified as target groups and focus group sessions will be scheduled for each: 1) police/corrections/pardons and parole; 2) courts and youth corrections; and, 3) attorneys.

The first focus group session was held on August 28, with six law enforcement officers and each of the subcommittee members participating. Information received from that session was discussed at the subcommittee meeting on September 25.

Plans for 2003

Plans for 2003 involve the completion of the focus group sessions for each of the three above groups and developing strategies around the most promising approaches for improving recruitment and employment. It is anticipated that these approaches will involve working with both law enforcement and justice system employers, schools, and communities in a variety of outreach initiatives. The subcommittee will also review the extent to which the original task force recommendations concerning recruitment and employment have been addressed by individual agencies and what employment data reveals about what progress is being made.

The focus group sessions should be completed and strategies developed by the end of the first quarter of the year. Outreach strategies will be pursued through the course of the year.

Research Subcommittee

Mission/Focus

The focus of the Research Subcommittee is to honestly examine the issue of racial and ethnic fairness in the legal system through reviews of research studies and surveys that are scientifically-based and are conducted through recognized research methodology. Based on this review, the subcommittee may propose that the Commission generate a response, conduct further research, or let the study stand as completed.

Membership

Susan Burke (Chair), *Director, Utah Substance Abuse and Anti-Violence Coordinating Council*

John Adams, *President, Utah State Bar*

Edward McConkie, *Executive Director, Utah Commission on Criminal and Juvenile Justice*

Dr. Deidre Tyler, *Associate Professor, Salt Lake Community College*

Current Activities

The Committee is currently in the process of completing an overview of the status of research-related recommendations contained in the report by the Task Force on Racial and Ethnic Fairness in the Legal System. The overview will identify if the study was completed, is in progress or is not feasible. If the study was completed, an overview of the findings will be listed. If the study is in progress, a target completion date will be identified. If the study is not feasible, the committee will explain the problems related to the study and, if appropriate, make suggestions for how the study can be modified.

Plans for 2003

The Research Subcommittee identified the top three priority concerns for the Research Committee. Collecting and analyzing data in order to respond to new Utah law on law enforcement racial profiling has been given highest priority. Next, the subcommittee intends to track the specific reasons why sentencing judges and pre-sentencing recommendations depart from both adult and juvenile sentencing guidelines. Finally, the subcommittee will identify a process for how the findings from completed research studies are utilized and shared with agencies and the general public.

In addition, the subcommittee is considering new research areas. One such area is the correlation between case loads and plea negotiations. This would include a distinction between those with public attorneys and those with private attorneys to determine if this is primarily a socio-economic issue or a racial discrimination issue. Another example is an examination of the percentage of minorities that plead guilty to the original charge due to cultural values that dictate individuals accept responsibility for their actions rather than negotiate for a better outcome.

PROGRESS AT A GLANCE

Racial and ethnic fairness in the legal system is not an ideal that is achieved through a mere checklist of activities that once completed can be put to rest. Rather, the effort to achieve a justice system that is not influenced solely by the color of a person’s skin or by his or her ethnic heritage is an ongoing and active process. Justice for all is something that must be worked on every day and must be present in the minds of those who are both participants and workers within the justice system.

Yet, it is still important to continually measure our efforts, highlight accomplishments and specific projects completed, and identify strategies that hopefully one day will emerge as a standard way of doing business. With these thoughts in mind, the following table reports the status of each recommendation, the agency or agencies responsible, and, where appropriate, identifies a source for further information. The information in this table is based upon self-reported documents from agencies and representatives of the responsible parties. The content has not been evaluated during this first year of the Commission. This table should not be used as the sole measurement of the Commission’s work or the work of the agencies identified. Instead, the table should be viewed as a fluid document that is continually updated and modified, establishing a pattern of progress toward racial and ethnic fairness.

Workforce: Recruiting/Hiring

<i>Task Force Recommendation</i>	<i>Responsible Agencies</i>	<i>Status</i>	<i>Reference</i>
1. Agencies in the state of Utah should establish and maintain Equal Employment Opportunity Plans.	All Commission Agencies	<p><u>Plan in Place:</u> POST, Courts DYC, DOC, BOPP, and Bar</p> <p>Chiefs—Majority of police departments have plan in place; Sheriffs—20 of 29 counties, as required by state law</p> <p><u>Not required by law:</u> SLLDA, SWAP, Sent Cmsn, CCJJ</p>	Appendices; DHRM Admin Rule 477-2; Agency websites

<p>2. Law enforcement agencies and Peace Officer Standards and Training (POST) should make efforts to have a workforce that is reflective of the diversity of the population they serve (including racial, ethnic, cultural, and language diversity). Recruitment efforts should target local high schools, community colleges, ethnic community organizations and ethnic media to encourage minority youth into law enforcement careers.</p>	<p>Chiefs, Sheriffs, POST</p>	<p>Efforts include job fairs, School Resource Officers, and POST Police Corps program.</p>	<p>Appendices</p>
<p>3. Peace Officer Standards and Training (POST) and law enforcement agencies should adopt a proven evaluation instrument that can help screen all applicants for predisposition towards racial or ethnic biased behaviors. The tool should be an indicator of possible future job performance and not simply a measure of personal beliefs.</p>	<p>Chiefs, Sheriffs, POST</p>	<p>Some departments/offices use psychological profiles or character assessment instruments in application process.</p>	<p>Appendices</p>
<p>4. The judiciary and the legal community as a whole should enhance their current minority recruitment efforts and work with minority communities to attract a larger pool of qualified minority applicants.</p>	<p>All Commission Agencies</p>	<p>Individual agencies have plans in progress; Commission Subcommittee is conducting Focus Groups.</p>	<p>Appendices and Subcommittee Reports</p>
<p>5. All county commissions awarding legal defender contracts in Utah should consider the issue of workforce diversity as an important factor in its review and assessment of the qualifications of contract applications.</p>	<p>No Commission Agency identified</p>	<p>The Juvenile Disproportionate Minority Confinement Committee (DMC) has prioritized the implementation of this recommendation for 2003.</p>	<p>The DMC of the Utah Board of Juvenile Justice</p>
<p>6. The Administrative Office of the Courts should conduct an examination of the racial and ethnic diversity of the courts workforce by judicial district to ensure progress in the goal of increasing workforce diversity. This examination should occur at least annually.</p>	<p>Courts</p>	<p>The “Workforce Composition Report” and “Utilization Analysis Report” will continue to be done annually. A new “Minority Retention Report” is also conducted.</p>	<p>Appendices and Utah State Courts Human Resources webpage</p>
<p>7a. The governor should ensure that every judicial nominating commission has a racially diverse membership.</p>	<p>No Commission Agency identified</p>	<p>Members of the Task Force met with the Governor to review recommendations; the Citizen Advisory Council conducted a campaign to encourage advocates of color to apply for Commission openings and met with the Governor to review this issue.</p>	<p>Appendices; Citizen Advisory Council</p>

<p>7b. The judicial nominating commissions and governor should adopt a policy that expressly recognizes the importance of racial and ethnic diversity in the nomination and appointment of judges.</p>	<p>No Commission Agency identified</p>	<p>No such policy has been adopted. The Courts' Implementation Committee sends a strong letter to all commissions reviewing judicial vacancies. The Advisory Council has testified at a commission meeting when a vacancy was reviewed.</p>	<p>Appendices</p>
<p>8. The Judicial Council, as part of the justice court certification process, should ensure that all judicial appointing authorities (city council/county government) recognize the importance of cultural diversity in the workplace and should have in place recruiting processes that result in diverse applicant pools. Further, the appointing authority should retain data relating to the race and ethnic background of applicants for the judicial vacancy for examination by the Judicial Council to monitor compliance with this position.</p>	<p>Courts</p>	<p>New Justice Court Judge Orientation includes racial and ethnic fairness presentations; the Administrative Office of the Courts added a point to the judicial vacancy application where the applicant can self-report his or her race.</p>	<p>Appendices</p>
<p>9. Judges should consider the importance of diversity on the bar and bench in the hiring of law clerks.</p>	<p>Courts</p>	<p>This is currently done informally only.</p>	<p>Appendices</p>
<p>10. The workforce of Adult Probation and Parole and the Utah Department of Corrections should establish policies and practices to increase their ability to recruit minority applicants. Hiring practices should be evaluated for their effect on minority applicants. Corrections should seek minority employees actively as new hires or on a contract basis, such as for pre-sentence investigators.</p>	<p>DOC</p>	<p>DOC Human Resources Bureau reviewed the impact of officer testing and hiring processes on minority candidates. Application and qualification processes have been adjusted and a task force formed to improve the processes.</p>	<p>Appendices</p>
<p>11. The Juvenile Courts and the Division of Youth Corrections, including their contract service providers, should establish policies and practices to increase their ability to recruit minority applicants.</p>	<p>DYC, Courts</p>	<p>The Juvenile Disproportionate Minority Confinement Committee (DMC), with its DYC and Court representatives, has prioritized the implementation of this recommendation for 2003.</p>	<p>The DMC of the Utah Board of Juvenile Justice</p>

Training

<i>Task Force Recommendation</i>	<i>Responsible Agencies</i>	<i>Status</i>	<i>Reference</i>
1a. Peace Officer Standards and Training (POST) certified officers should be required to complete a minimum of four (4) hours per year of diversity training, as part of its forty hour (40) continuing education requirement.	POST	POST offers and encourages four and eight hour cultural competency trainings, but does not have the authority to mandate the curriculum.	Appendices
1b. Law enforcement diversity training should be non-repetitive and offer a variety of lesson plans throughout the year, such as: <ul style="list-style-type: none"> • Race Versus Culture • Hate Groups and Hate Crimes • Gender as a Unique Cultural Heritage • Domestic Violence Training • Sexual Harassment on the Force • Rape Survivor Awareness • Understanding One’s Own Biases • Consequences for Racial Bias on the Job: Can I Be Sued? 	POST	The Cultural Competence curriculum is highly regarded and well received. Addressed in this and other curricula are: Domestic Violence, Peace Officer Liability, Victimology, and Sex Crimes.	Appendices
1c. Cultural diversity training should address the specific needs of law enforcement. This training should focus on cultural competency, not only awareness and sensitivity. It should provide opportunities for various ethnic groups to teach officers about the culture. The Utah Chiefs of Police Association, Utah Sheriffs Association, and Peace Officer Standards and Training (POST), should create a curriculum for law enforcement.	POST, Chiefs, Sheriffs	The new curriculum has been developed and employed. POST also assisted in the development of the Utah Multi-Agency Cultural Competence Curriculum. The Chiefs developed and conducted a Train the Trainer session for a skill-based course on culturally competent traffic stops.	Appendices
2a. Upcoming annual conferences for chiefs and sheriffs should have diversity issues as a main focus.	Chiefs, Sheriffs	The Sheriff’s Executive Development Institute (Sept 02) addressed diversity issues. The Chiefs are committed to discussing diversity issues in sessions.	Appendices

<p>2b. Administrative personnel, including chiefs and sheriffs, should be required to complete additional training, at least yearly, regarding issues related to managing a diverse workforce.</p>	<p>Chiefs, Sheriffs</p>	<p>Past Sheriff’s Conference (Sept 01) included a “Workforce Diversity Track” for managers. The Chiefs intend to bring this subject as a potential training topic for Executive Development Institutes.</p>	<p>Appendices</p>
<p>3a. The Utah Supreme Court’s Board of Mandatory Continuing Legal Education should require attorneys practicing in the criminal and juvenile justice systems to complete cultural competency training on a regular basis.</p>	<p>Utah Supreme Court’s Board of Mandatory Continuing Legal Education</p>	<p>At this time, it is not required. The Utah Multi-Agency Cultural Competence Curriculum offered a low-cost training that targeted attorneys, and SWAP is exploring the possibility of offering similar training to its members.</p>	<p>Appendices</p>
<p>3b. The Utah State Bar should offer Continuing Legal Education (CLE) training on cultural competency for attorneys and paralegals in the criminal and juvenile justice systems.</p>	<p>Bar</p>	<p>Collaborating with the Multicultural Legal Center, the Bar has granted CLE credit for training based upon the Utah Multi-Agency Cultural Competence Curriculum.</p>	<p>Appendices</p>
<p>4. The court and counsel should, as a matter of policy, warn defendants, who agree to deportation as a condition of the sentence, of the harsh consequences under federal law for violating the condition not to return to the United States without permission from the government.</p>	<p>Bar, Courts, SLLDA, SWAP</p>	<p>The Bar formed a subcommittee to explore this issue and develop a plan of action.</p>	<p>Appendices</p>
<p>5a. The Judicial Council should ensure that all judges (at all levels of court) and relevant court personnel receive regular training on the appropriate use of interpreters in the courtroom.</p>	<p>Courts</p>	<p>Interpreting and Cultural Competency issues were addressed at the Juvenile Court Judges Conference, Justice Court Judges Conference, and District Court Judicial Conferences.</p>	<p>Appendices</p>
<p>5b. Judges should receive training on the level of reliability of psychological evaluation results in cases where the mental health practitioner does not speak the same language as the client/defendant, does not have an understanding of the defendant’s culture, and in cases where an interpreter is used for the evaluation.</p>	<p>Courts, Adult Probation and Parole</p>	<p>Topic discussed at District Court Judicial Conference (May 02). Budgetary constraints dictate that bilingual psychological exams be discontinued until conducted properly.</p>	<p>Appendices</p>

<p>5c. Mandatory cultural diversity training should address the specific needs of court employees, including judges. 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. 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.</p>	<p>Courts</p>	<p>State Court Administrator mandated that all court employees receive eight hours of cultural competency training between Nov 01 and June 02. It is additionally required for all new court employees. Judges received training at their annual judicial education conferences. The Utah Multi-Agency Cultural Competency Curriculum was created and utilized by many state agencies and private organizations.</p>	<p>Appendices</p>
<p>5d. Judges should receive training on the rights of individuals to serve on juries and defendants to have a jury that reflects a cross section of the community.</p>	<p>Courts</p>	<p>Topic brought to the Standing Committee on Judicial Education for inclusion in future District Conferences.</p>	<p>Appendices</p>
<p>6. Individual judges, at all levels of the courts, and members of the Board of Pardons and Parole should conduct a heightened examination of the sentences they impose to determine whether or not they have, perhaps unintentionally, allowed racism to cloud their judgements.</p>	<p>Courts, BOPP</p>	<p>The Courts have not initiated a study yet. Questions of methodology arose by the contracted researchers and other research studies have taken current precedence. The Board and the Social Research Institute have conducted studies, both found no significant difference in length of prison stay between minorities and whites.</p>	<p>Appendices</p>
<p>7. Pre-sentence investigators should receive training on the importance of adhering to sentencing guidelines and their affirmative duty to justify departures with specificity.</p>	<p>DOC</p>	<p>Process is established requiring initial training, documentation of deviations, supervisor review, and collaboration with the Sentencing Commission.</p>	<p>Appendices</p>
<p>8. Training on the nature and impact of racial and ethnic bias within the system should be mandatory for Department of Corrections and Board of Pardons and Parole employees, including pre-sentence investigators (staff and contract). Mandatory training should include communication skills and the minority defendant. This training should assist employees in understanding different cultures.</p>	<p>DOC, BOPP</p>	<p>Pre-Service Academy, In-Service Training, new civilian staff, 1st Line Supervisors, DIO, UCI, and AP&P receive mandatory and regular training. Three Board members/employees have attended Utah Multi-Agency Cultural Competence Curriculum training. The Board is working with POST to provide additional training for all Board employees.</p>	<p>Appendices</p>

Interpreting

<i>Task Force Recommendation</i>	<i>Responsible Agencies</i>	<i>Status</i>	<i>Reference</i>
<p>1. All law enforcement agencies should ensure effective interpreter services at arrest, booking, and at the complaint process. Strategies should include:</p> <ul style="list-style-type: none"> • development of minimal interpreter standards, • utilization of the AT&T Language Line • language training opportunities for law enforcement, including tuition awards and in-house training, and • use of volunteers to provide assistance with both knowledge of language and culture 	Chiefs, Sheriffs, POST	Available services vary greatly by county and resources. There are incentive programs to encourage bilingual skills amongst officers. POST proposal to double hours in Spanish language curriculum. Chiefs may secure lower-cost access to statewide language line.	Appendices
<p>2. The public and Bar should be provided with easily retrievable information on individual rights to an interpreter and the availability of interpreter services. Strategies should include:</p> <ul style="list-style-type: none"> • Bar and Court web sites, and • Audiovisual and pamphlet materials available in multiple languages. 	Courts, Bar	Extensive information is available on the Courts website and the Bar is collaborating with the Multicultural Legal Center to prepare a pamphlet.	Appendices
<p>3. The court interpreter certification program should be strengthened and expanded to ensure quality interpretation for all those appearing in court proceedings. Strategies should include:</p> <ul style="list-style-type: none"> • employing a full time administrator, including local managers, as appropriate, • employing full time interpreters as court employees, where appropriate, • establishing guidelines for contract interpreter selection, • monitoring needs requirements for additional language interpreters and certification testing, • establishing and maintaining a code of professional responsibility, discipline, and grievance procedure, and • conducting a concerted effort to recruit skilled interpreters so that there is a high probability exists that a certified interpreter will always be used. 	Courts	<p>All points have been implemented except:</p> <ul style="list-style-type: none"> • budgetary constraints do not allow for a full-time administrator, although a full-time Interpreter Coordinator has been hired in the Third District. • budgetary constraints do not allow for certification in other languages at this time, but Court-Approved translators are available. • request for full-time interpreter positions will likely be proposed again, as most effective and economical service provision. 	Appendices

<p>4. Interpreters should be proficiently bilingual and culturally competent to provide the proper language and dialect to an individual before the court. More minorities should be recruited to serve as interpreters.</p>	<p>Courts</p>	<p>The Courts joined the National Center for State Courts' Interpreter Consortium; interpreters are required to attend Courts' cultural competency training; interpreter recruitment plan devised by subcommittee of Court Interpreter Advisory Panel.</p>	<p>Appendices</p>
<p>5. Non-interpreter court employees who have bilingual skills and use those skills as a part of their job duties should be acknowledged through increasing starting salary levels and/or appropriate pay increases.</p>	<p>Courts</p>	<p>Second-Language Stipends have been implemented into policy.</p>	<p>Appendices</p>
<p>6. The Judicial Council should assign the responsibility to the Court Interpreter Advisory Committee of conducting a feasibility study to evaluate the need, viability, and placement of a centralized authority for overseeing the administration of certification and delivery of interpreter services for all criminal and juvenile justice agencies.</p>	<p>Courts</p>	<p>The Court Interpreter Advisory Panel deemed this not workable nor practical due to vast differences across the system. Furthermore, it would compromise budget, priorities, and quality control.</p>	<p>Appendices</p>
<p>7. Judges must assume responsibility in determining that the race, ethnicity or primary language of defendants, witnesses, victims, and counsel do not affect the ability of individual jurors to be impartial and should instruct court participants on the role of the interpreter (including the administration of the oath in open court).</p>	<p>Courts</p>	<p>These practices have been, and will continue to be, taught in orientations and judicial education conferences.</p>	<p>Appendices</p>

Community Resources/Outreach

<i>Task Force Recommendation</i>	<i>Responsible Agencies</i>	<i>Status</i>	<i>Reference</i>
<p>1. The State Office of Education should consider the following as strategies to assist in developing the pool of qualified minority applicants for criminal and juvenile justice careers:</p> <ul style="list-style-type: none"> • a pilot criminal and juvenile justice academy/magnet school at the high school level that focuses on the many career opportunities in the criminal and juvenile justice system. • incorporating criminal and juvenile justice issues into the high school curriculum. 	No Commission Agency identified	School Resource Officers frequently teach law-related education classes to students that include a discussion on law enforcement careers.	State Office of Education
<p>2a. The State Office of Education, via their “Prevention Dimensions” K-12 curriculum, should take a leadership role in partnering with the courts, state government, local government, legal organizations, and community groups, to teach the community and students about respect for different cultures, tolerance of difference, and understanding about what constitutes a hate crime.</p>	No Commission Agency identified	Administrators in the State Office of Education institutionalized organizational changes to maximize internal collaboration. The Putting It Together (PIT) Crew coordinated the combining of resources and staff to train the multiple educational dimensions with the Respecting Ethnic and Cultural Heritage (REACH) curriculum. The core trainers have also collaborated with other agencies, including the Salt Lake Valley Health Department.	State Office of Education
<p>2b. The Judicial Council’s Public Outreach Committee should take the lead in helping communities to understand the court process by considering implementation of the following: civics classes for minority communities, tours of the courts for schools and youth clubs, <i>Meet the Judges</i> nights, and having a Court - Community Outreach effort to link the courts and the public.</p>	Courts	The Public Outreach Committee has conducted numerous events and community collaborations. Various programs have been initiated to encourage the judiciary to become involved in public outreach.	Appendices

<p>3. All elements of the criminal and juvenile justice system should collaborate to provide the public and schools with information to better understand our law enforcement and justice system in order to enhance public trust and confidence. This should include:</p> <ul style="list-style-type: none"> • law enforcement complaint process, • judicial complaint process, • other employee complaint process, • annual report on minority bar, • and web site information on minority bar and judges, to include tribal courts. 	<p>All Commission Agencies</p>	<p>Dialogue on Freedom; School Resource Officers; funding opportunities for efforts to increase understanding of the system; referral to the Judicial Conduct Commission; 1-800 Courts Information line accepts complaints related to the State Courts; website information; Speakers Bureaus, and numerous events and presentations at the agency level.</p>	<p>Appendices</p>
<p>4. Minority organizations, including the Utah Minority Bar Association (UMBA), should anticipate judicial vacancies, encourage minority lawyers to apply and participate directly in the nominating commission and selection processes.</p>	<p>UMBA, community organizations</p>	<p>UMBA has hosted workshops to assist judicial applicants of color with the application process. The State’s Hispanic Advisory Board wrote articles in the <i>Salt Lake Tribune</i> regarding the importance of diversifying the judiciary. The Courts’ Ad Hoc Implementation Committee sent strong letters of support for diversifying the judiciary to Judicial Nominating Commissions reviewing judicial vacancies.</p>	<p>Appendices</p>
<p>5. The Utah Minority Bar Association and other associations should continue efforts to provide scholarships for minority law students and should work toward developing creative methods for expanding its outreach to recruit and encourage minorities to consider pursuing the practice of law.</p>	<p>UMBA, Bar</p>	<p>UMBA provides scholarships to current law school students at its annual banquet. The Bar is considering providing scholarships.</p>	<p>Appendices</p>
<p>6. The Utah State Bar should promote networking as a means for increasing minority membership and participation. This should include:</p> <ul style="list-style-type: none"> • social events and educational programs, • law school programs, • internships, • scholarships, and • mentor programs. 	<p>Bar</p>	<p>Bar Commission includes UMBA representative as <i>ex officio</i> member, meets regularly with UMBA leadership, supports various fund-raisers, hosts the law schools’ diversity job fairs, and considering continuing legal education scholarships to attorneys of color.</p>	<p>Appendices</p>

<p>7. Minority communities should organize support groups to develop intervention and mentor/role model programs for high risk youth.</p>	<p>No Commission Agency identified</p>	<p>Multiple programs are in existence throughout the state. Programs include: <i>Poder Para la Familia Hispana</i>, Community Connection Services and Office of Polynesian Affairs' <i>Project Manna</i>, Indian Walk-In Center Youth Program, the Asian Association of Utah's Culturally Appropriate Resiliency Enhancement (CARE) and Asian-Pacific Islander Life Empowerment (APLE) programs, the National Conference for Community and Justice (NCCJ) Unitown program. The newly-formed National Latino Peace Officers Association has prioritized outreach and youth mentor programs.</p>	<p>State Ethnic Offices, various community groups</p>
<p>8. Criminal and juvenile justice entities should establish and maintain ongoing partnerships with community institutions from local government, to civic groups, to religious organizations, to local leaders in order to best meet the community's needs.</p>	<p>All Commission Agencies</p>	<p>All Commission agencies nurture these partnerships at the agency level.</p>	<p>Appendices</p>

Complaint Processes

<i>Task Force Recommendation</i>	<i>Responsible Agencies</i>	<i>Status</i>	<i>Reference</i>
1. At a minimum, all law enforcement agencies in Utah should have a written complaint review process in place.	Chiefs, Sheriffs, POST	At the agency level; POST also accepts complaints under specific circumstances. Approximately 70% of counties have a formal process.	Appendices
2. The Peace Officer Standards and Training (POST) Council should establish a model complaint process for law enforcement agencies. (Multiple issues identified)	POST	POST works with individual agencies to investigate, provide training, and certification of managers. POST can exercise independent authority to investigate and discipline. Salt Lake City has a Citizen Review Board in place, and one is underway in Weber County.	Appendices

Administration

<i>Task Force Recommendation</i>	<i>Responsible Agencies</i>	<i>Status</i>	<i>Reference</i>
1. Utahns should be provided a safe and central location to learn more about hate groups and hate motivated violence, to receive information and education on recognizing, reporting, investigating, prosecuting, and punishing of hate crimes, and to report complaints about the handling of their cases.	All Commission Agencies/ No responsible party identified	The 2002 Sundance Film Festival specifically explored hate crimes and the Chiefs and Commission participated in a community screening and dialogue.	Appendices
2. Law enforcement administrators and directors should not tolerate police officer conduct in decision making at any level based solely on race or ethnicity.	Chiefs, Sheriffs, POST	Administrators and Associations have no-tolerance policies for bias-based policing.	Appendices
3. Law enforcement agencies should adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by consideration of race, color, ethnicity, age or gender and would constitute a violation of the civil rights of that person.	Chiefs, Sheriffs	The Chiefs provide a model "Racial Profiling Policy" on their website, which was adopted also by the Sheriffs in third quarter 2001.	Appendices

<p>4. Law enforcement agencies should seek funding necessary to install video cameras with audio capability to be used in patrol vehicles and micro-cassette recorders to be utilized on citizen contacts away from the patrol vehicle in order to ensure against profiling based on race and ethnicity.</p>	<p>Chiefs, Sheriffs</p>	<p>This is a priority and supported by all departments. Implementation is anticipated in near future.</p>	<p>Appendices</p>
<p>5. Activities by the State Bar should include:</p> <ul style="list-style-type: none"> • encouraging Utah women of color to participate in bar activities, and • coordinating efforts of Young Lawyers of Utah, Women Lawyers of Utah, Bar and Minority Bar Association to increase the number of minority lawyers and their participation in bar activities. 	<p>Bar</p>	<p>Bar Commission includes <i>ex officio</i> members of these three groups, meeting regularly with leadership and supporting events.</p>	<p>Appendices</p>
<p>6. Public defender contracts should be awarded to attorneys who have experience and competency in criminal law.</p>	<p>No Commission Agency identified</p>	<p>SLLDA handles more volume and difficult cases more often than any privately operated, publicly funded agency in Utah.</p>	<p>Appendices</p>
<p>7. Law enforcement, prosecutors, and judges should not be decision makers in the award of public defender contracts. Input from others should be sought by those who decide the awards.</p>	<p>No Commission Agency identified</p>	<p>The identified agencies do not have decision making authority in awards process.</p>	<p>Appendices</p>
<p>8. The budget for appointed attorneys should be separate from the budget for county prosecutors. Since funding a public defender office with funds from the prosecutor budget can create the appearance of a conflict of interest, local governments should ensure that the budgets are separate.</p>	<p>SLLDA, SWAP</p>	<p>Public defender office budgets are separate from prosecutor's office budget.</p>	<p>Appendices</p>
<p>9. Public defender and prosecutor caseloads should be lightened so as to allow more attention to individual cases.</p>	<p>SLLDA, SWAP</p>	<p>SLLDA reports that caseloads have decreased or stayed constant for several years. SWAP reports that their loads have increased.</p>	<p>Appendices</p>
<p>10. Comparable pay for comparable experience should be given to public defenders and prosecutors so that lateral transfers within the system are possible.</p>	<p>SLLDA, SWAP</p>	<p>This remains a goal, but may pose potential conflict with other recommendations.</p>	<p>Appendices</p>

11. Public defenders and all criminal defense attorneys should provide their clients with referrals to other agencies that can assist in resolving problems that are not legal in nature and thus outside the expertise of the attorneys.	SLLDA	SLLDA makes appropriate referrals.	Appendices
12. The Legislature, county and local governments should provide additional financial resources to bring all prosecutor and legal defense offices up to the equivalent provided to the Salt Lake District Attorney's Office and the Salt Lake Legal Defender's Association.	SLLDA, SWAP	It is unlikely that the Utah State Legislature would provide this funding.	Appendices
13. In order to develop race-neutral release policies, Utah's criminal justice system should adopt objective criteria for pre-trial release.	DOC	Adult Probation and Parole will review Pre-Sentence Investigation process to ensure race-neutral perspective.	Appendices
14. The pre-sentence report header should not include any information on race/ethnicity of the accused and victims. At no time should race or ethnicity be considered in the pre-sentence evaluation, except when that information is an integral component to the pre-sentence evaluation, such as police report descriptions or in hate crimes. The data, however, should be collected and maintained separately and electronically if possible.	DOC	The information is not on the header, but still collected in the O-Track database.	Appendices
15. Upward departure recommendations on pre-sentence investigations should, by policy, require review by a supervisor. Records shall be kept in a searchable form of all approvals for upward departures.	DOC	All PSI recommendations are reviewed by a supervisor.	Appendices
16. The Judicial Council should request annual reports from the Administrative Office of the Courts and the Utah State Bar outlining their progress in implementation of court workforce recommendations.	Courts, Bar	The Courts submit the reports annually. The Bar has and will continue to submit reports upon request.	Appendices

<p>17. Court ordered psychological evaluations (ie., those completed by Pre-Trial Services, Department of Human Services competency evaluations, in conjunction with Adult Probation and Parole pre-sentence investigations, the mental health component of diagnostic evaluations, Adult Compliance and Education Center, community based treatment program mental health evaluations) should be conducted by skilled practitioners. Practitioners should strive for linguistic and cultural similarity with their clients. At a minimum, practitioners should demonstrate a basic understanding of their client’s cultural background in order to account for the significant influences of race and ethnicity upon the accuracy of the evaluations.</p>	<p>DOC</p>	<p>All evaluations are performed by licensed practitioners. DOC is considering requiring cultural competency training from their contract providers.</p>	<p>Appendices</p>
<p>18. Juvenile justice system services should be provided to the entire family to insure that family issues that may contribute to delinquent behavior are addressed as well as those of the minor.</p>	<p>DYC</p>	<p>During last fiscal year alone, over 69,000 hours of family therapy were provided.</p>	<p>Appendices</p>
<p>19. The Juvenile Court, and its attendant services, such as probation, should expand its operating hours to accommodate work responsibilities of many parents of court clients.</p>	<p>Courts</p>	<p>Extended hours of operation are in process within some components of Juvenile Court at this time (including probation officers, State Supervision Unit, Positive Solutions Classes, Intake Services, and Orientation Programs). Some units will also travel to conduct home visits to accommodate client schedules. Other components, such as Assessment & Diversion, had experimented with extended hours and Saturday hours. However, utilization was too low to justify the additional costs (including personnel, security, operations).</p>	<p>Appendices</p>

20. Advocate positions should be created by the Utah State Courts as a means of helping individuals and families through the court process. The availability of an advocate who is knowledgeable about the system, has a bi/multi-lingual capability, and has demonstrated cross-cultural skills would create a perception of a friendlier and more caring system.	Courts	Court employees receiving Second Language Stipends fulfill part of this role.	Appendices
21. Community based organizations that are engaged in intervention projects targeting minority youth should utilize existing research on reducing risk and enhancing strengths (i.e., the Hawkins Catalano Communities that Care Model) in their program development efforts.	No Commission Agency identified	Utah Board of Juvenile Justice requires all funded programs serving juveniles to utilize a risk-focused model and to evaluate programs using this model.	Appendices
22. 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.	DYC	Several current contracts are with culturally competent providers. DYC will further attempt to recruit a broader pool at the next request for proposals.	Appendices
23. 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.	DYC	Several current contracts are with culturally competent providers. The single mentor program is run by Colors of Success.	Appendices

Data

<i>Task Force Recommendation</i>	<i>Responsible Agencies</i>	<i>Status</i>	<i>Reference</i>
1. The race and ethnicity of crime victims should be maintained electronically in databases so that further studies of minority crime victims are possible in the future.	Chiefs, Sheriffs	This information is not collected at this time. Legislation will likely be necessary for implementation.	Appendices

<p>2. Individual law enforcement agencies should track yearly the following data related to complaint processes:</p> <ul style="list-style-type: none"> • Review board members’ race and ethnicity, • Review board members’ length of service, • The officer’s race/ethnicity, • The complainant’s race/ethnicity, and • The overall number of police abuse complaints filed and their dispositions. 	<p>Chiefs, Sheriffs</p>	<p>Most departments do not have review boards. The new Racial Profiling law currently requires the officer to report his/her race/ethnicity, and Utahns can voluntarily report their race/ethnicity on their drivers license application.</p>	<p>Appendices</p>
<p>3. Law enforcement agencies should keep not only accurate, but readily compilable, accessible and reviewable racial and ethnic data on all stops (traffic and pedestrian), searches, citations, arrests, and citizen complaints. Stops should also include data collection about reason for stops (ie. gang-related stops, traffic violations).</p>	<p>Chiefs, Sheriffs</p>	<p>The new Racial Profiling law will provide this information.</p>	<p>Appendices</p>
<p>4. The Utah Department of Public Safety should modify and improve the Bureau of Criminal Investigation database. Lack of complete data prevents a thorough understanding of the extent of racial bias in the system. The Utah Sheriffs’ Association, the Utah Chiefs of Police Association, Peace Officer Standards and Training (POST), and the Bureau of Criminal Investigation should give strong support for maintaining a statewide, standardized law enforcement software which would consistently report crime and arrest information. These organizations should seek complete and regular reporting from all law enforcement agencies in the state.</p>	<p>Chiefs, Sheriffs, POST, DPS</p>	<p>This has not been implemented, but standardization, automation, and interactive databases are goals for many counties. Collaboration is encouraged.</p>	<p>Appendices</p>
<p>5. The Utah State Bar and Utah Minority Bar Association should track and report racial data to the Utah Supreme Court, including:</p> <ul style="list-style-type: none"> • number of minorities employed at the Bar, • participation of minority lawyers in bar activities and leadership positions, and • racial and ethnic composition of Utah State Bar, including applicants for Bar exam. 	<p>Bar</p>	<p>Reports are provided at request; 13% of Bar staff are ethnic minority and Bar Commission includes two commissioners of color. Racial/ethnic composition of Bar membership is being determined.</p>	<p>Appendices</p>

<p>6. Salt Lake Legal Defender's Association and other providers of public defender services in Utah should keep track of the race, ethnicity and primary language of each defendant served. These data should be kept electronically, if possible.</p>	<p>SLLDA</p>	<p>In conjunction with the Third District Court, this information is now collected.</p>	<p>Appendices</p>
<p>7. Track electronically racial and ethnic data on pre-trial release decisions, including Consent Decree Release (CDR), release to Pre-Trial Services (PTS), and release on own recognizance (OR).</p>	<p>Courts</p>	<p>The implementation of the racial profiling law will start this process. Prior to this data collection measure, the system lacked a data-gathering mechanism, consistent computer programs for appropriate input, and the software and hardware to gather information from each of the agencies' databases.</p>	<p>Appendices</p>
<p>8. The Administrative Office of the Courts should keep statistics regarding the race and ethnic background of judicial applicants (for appellate, juvenile, and district court positions) throughout the application process. The process for collecting these data should allow applicants to self-identify their race/ethnicity. The data should be used for statistical purposes only. Therefore, data should be collected with the application but separated prior to the review process.</p>	<p>Courts</p>	<p>Judicial application revision includes this information.</p>	<p>Appendices</p>
<p>9. The Administrative Office of the Courts' court employee application form should include some type of form that requests Equal Employment Opportunity data as an optional part of the application. The collection of this data should be used for statistical purposes only. Therefore, the form should not be attached to the application so as to ensure that the information will not be forwarded to the interview process. The data should be self-reported. A self-addressed postcard or foldable mailer are two possibilities.</p>	<p>Courts</p>	<p>Court employee application revision includes this information.</p>	<p>Appendices</p>

<p>10. Criminal and juvenile justice agencies should conduct annual reviews as well as confidential exit interviews for employees that include a question regarding racial and ethnic fairness in the employee's work environment.</p>	<p>All Commission Agencies</p>	<p>CCJJ, Courts, DOC, DYC are currently implementing the reviews. Bar, BOPP, Chiefs, POST, SLLDA, Sheriffs, SWAP have delayed implementation.</p>	<p>Appendices</p>
<p>11. Justice courts across the state should maintain data on sentencing decisions by race and ethnicity. Data should be kept in a consistent manner for the purposes of evaluation.</p>	<p>No Commission Agency identified</p>	<p>Justice Courts are not under the jurisdiction of the State Courts. This has not been implemented primarily due to technological limitations of many Justice Courts.</p>	<p>Appendices</p>
<p>12. The racial and ethnic composition of the qualified jury list and of jury service should be tracked regularly to determine levels of participation by minorities and the representativeness of Utah's jury pool database.</p>	<p>Courts</p>	<p>Efforts to ensure representative jury pool and increase the effectiveness of the jury summons process are occurring.</p>	<p>Appendices</p>
<p>13. The Judicial Conduct Commission should track and publish the total number of complaints and the aggregate outcome of those complaints by outcome category.</p>	<p>No Commission Agency identified</p>	<p>This information is publicly available in the Judicial Conduct Commission annual reports. Categories include: Dismissed, Still Under Investigation, Private Reprimand, Public Reprimand, Public Censure, Suspension, Removal, and Involuntary Removal.</p>	<p>Judicial Conduct Commission</p>
<p>14. The Judicial Council should require justice courts to provide statistical information to the Administrative Office of the Courts (AOC) on workforce issues that the AOC tracks for other levels of the court, including racial/ethnic data on judicial applicant pools.</p>	<p>No Commission Agency identified</p>	<p>Justice Courts are not under the jurisdiction of the State Courts. Justice Courts are appointed by their local governments.</p>	<p>Appendices</p>
<p>15. The Judicial Performance Evaluation Committee should add the following item to the judicial performance evaluation form to inquire specifically about racial and ethnic bias. Respondents should be asked to rate the justice or judge on the following issue: Engages in any language or behaviors that result in racial, ethnic, or gender bias or the appearance of racial, ethnic, or gender bias?</p>	<p>Courts</p>	<p>This inquiry was removed from the evaluation form in an effort to reduce length. Analysis showed that the answers were captured through other questions.</p>	<p>Appendices</p>

16. The Department of Corrections should keep racial and ethnic statistics regarding the demographics of the prison, probation and parole populations, including: offense by type(s); recommendations of pre-sentence reports; sentencing guidelines compared to sentences by courts to probation, prison; length of stay compared with sentencing guidelines; probation or parole violation rates, termination of probation or parole rates; and those with illegal alien status, so that the impact of efforts toward increasing racial and ethnic fairness can be properly monitored.	DOC	The O-Track database collects this information.	Appendices
17. 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 custody issues.	DYC	Division has pending new data system. Future efforts will be made.	Appendices

Research

<i>Task Force Recommendation</i>	<i>Responsible Agencies</i>	<i>Status</i>	<i>Reference</i>
1. The criminal and juvenile justice system should implement management information systems that produce information that captures “what works” predicated on guiding principles that provide for a pro-active problem solving approach in dealing with the offender and the offender’s family.	All Commission Agencies	CCJJ (conducting a cost benefit analysis), DOC, DYC have begun this implementation. BOPP, Chiefs, Courts, POST, SLLDA, Sheriffs, SWAP have delayed implementation.	Appendices
2. The Commission on Criminal and Juvenile Justice should sponsor research into the alleged practice of stacking of charges to determine whether minorities receive more charges than non-minorities.	CCJJ	Study completed and delivered to the Juvenile Disproportionate Minority Confinement Committee and Commission Research Subcommittee.	Research Sub-Committee, DMC

3. The Commission on Criminal and Juvenile Justice should study law enforcement data regarding racial profiling, once sufficient data has been collected by local law enforcement agencies (ie. Salt Lake Police Department, St. George Police Department), and should publish their findings.	CCJJ	With passage of Racial Profiling law, will take five years to collect data.	Appendices
4. Law enforcement, in conjunction with other agencies, should support research to define and identify the nature and extent, if any, of racial profiling.	CCJJ	With passage of Racial Profiling law, will take five years to collect data.	Appendices
5. The Driver License Division of the Department of Public Safety should request that each applicant for a driver license or state identification card state his or her race and ethnicity in accordance with the categories established by the U.S. Census.	DPS, CCJJ	With passage of Racial Profiling law, will take five years to collect data.	Appendices
6. The Utah State Bar should review disciplinary practices for racial and ethnic bias.	Bar	No evidence of bias found.	Research Sub-Committee
7. The Utah State Bar should have the admissions process and procedures reviewed for racial and ethnic bias, and review the bar exam for disparate impact.	Bar	The Admissions' Committee has been assigned this task.	Research Sub-Committee
8. The Utah State Bar should examine the reasons behind the large percentage of minority lawyers who have "inactive status" with the Bar. Where appropriate, the Bar should develop internship and placement programs for minorities.	Bar	Research was unable to determine reasons for inactive status. Currently working to agree on best response/strategy to this issue.	Research Sub-Committee

<p>9. The State of Utah should conduct an assessment of how indigent defense services are conducted. The Task Force recommends the establishment of an Indigent Defense Review Council (IDRC) to be active for three years. Membership in the IDRC would be designated by the Legislature and would include one committee member from each judicial district in Utah, minority representation reflective of Utah’s overall population, as well as equal balance between prosecution and defense counsel, and others. IDRC would be charged with studying current delivery efforts in each county with specific attention to standards of fairness as applied to the representation of racial and ethnic minorities.</p>	<p>No Commission Agency Identified</p>	<p>This has not been implemented. SLLDA’s division for writs and appeals for indigent clients may address some of these issues.</p>	<p>Appendices</p>
<p>10. A statewide Appellate Public Defender’s Office should be created, consistent with the recommendations of the Task Force of Appellate Representation of Indigent Defendants (September 14, 1994).</p>	<p>No Commission Agency Identified</p>	<p>This has not been implemented.</p>	<p>Appendices</p>
<p>11. The Statewide Association of Prosecutors (SWAP) and the Prosecution Council should sponsor a process that represents multiple perspectives to conduct research on whether racial and ethnic bias is reflected in prosecutorial decision making.</p>	<p>SWAP</p>	<p>A literature and program evaluation review are in process, the Social Research Institute has been consulted, and a subcommittee is further exploring this possibility.</p>	<p>Appendices</p>
<p>12. More research and information about effective ways to punish hate crimes are needed including “models of intervention” such as mediation, education and training, more intensive probationary provisions, and offender treatment programs.</p>	<p>CCJJ, Sentencing Commission</p>	<p>Research on hate crime laws available; recommendation needs further clarification</p>	<p>Appendices, Sentencing Commission</p>
<p>13. The Judicial Council should determine methods for increasing the racial and ethnic representativeness of juries.</p>	<p>Courts</p>	<p>Jury Pool Improvement Project is examining options.</p>	<p>Appendices</p>

<p>14. The Administrative Office of the Courts should sponsor significant research on the source lists for the jury master list, the jury qualification process, and the use of peremptory challenges for racial and ethnic bias. Research should also study whether and to what extent jurors feel they have been the object of racial or ethnic bias in their capacity as jurors.</p>	<p>Courts</p>	<p>Jury Pool Improvement Project is examining options.</p>	<p>Appendices</p>
<p>15. The Administrative Office of the Courts should sponsor research to determine whether the absence of minorities on juries results in an inability to receive a fair trial. The study should compare conviction rates of minority defendants by juries with minority representation.</p>	<p>Courts</p>	<p>Jury Pool Improvement Project is examining options.</p>	<p>Appendices</p>
<p>16. The Utah Sentencing Commission should conduct an experiment involving the question of aggravating and mitigating circumstances both in the adult and juvenile justice systems. For example, conduct a “blind” review of recommendations where social information that would identify or suggest the client’s ethnicity is deleted in a matched set of minority and non-minority clients. The research should also examine the extent to which chronicity scores contribute to minority overrepresentation. 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.</p>	<p>Sentencing Commission</p>	<p>Juvenile research near completion. Adult research will then commence.</p>	<p>Sentencing Commission, CCJJ</p>
<p>17. The Juvenile Courts, the Department of Child and Family Services, and the Division of Youth Corrections should jointly examine the relationship between custody and socio-economic status. Specifically, the research should attempt to establish if a relationship exists between income level and custody decisions.</p>	<p>Courts, DCFS, DYC</p>	<p>This has not begun, as the data is currently being collected. National research may be available.</p>	<p>Social Research Institute</p>

18. The Juvenile Courts and the Division of Youth Corrections should conduct qualitative reviews involving youth who successfully exit the system.	Courts, DYC	New CARE system to collect data.	Appendices
19. The Utah Sentencing Commission should evaluate the application of aggravating and mitigating factors in sentencing, as opposed to the use of “strength-based” and “risk-focused” models, to determine if racial and ethnic bias occurs in that application.	Sentencing Commission	Sentencing Research currently being conducted. Analysis will commence after.	Appendices
20. The Department of Human Services should conduct research in order to review child welfare practices to determine if child welfare practices increase the likelihood of the youth correctional system to gain eventual custody of youth of color.	DHS	DHS is working to collect and report more data on client race/ethnicity and service provided; service concerns/inconsistencies; more accurate socio-economic information.	Appendices

APPENDICES

Agency Responses to Specific Task Force Recommendations

The Commission invited the participating criminal justice agencies to submit a response to the Task Force recommendations for their individual agencies. Following are the Agency Responses. Other than minor format adjustments, we have respected the agencies' prerogatives and response decisions and have made no editorial changes. Thus, the following appendices represent the views and comments of each individual agency, and not necessarily that of the Commission.

**Utah Chiefs of Police Association
Response to Recommendations of
Task Force on Racial and Ethnic Fairness**

WORKFORCE: RECRUITMENT/HIRING

1. *Agencies in the State of Utah should establish and maintain Equal Employment Opportunity Plans*

Implementation Status: Most police departments in the state have met this requirement.

2. *Law enforcement agencies and Peace Officer Standards and Training (POST) should make efforts to have a workforce that is reflective of the diversity of the population they serve (including racial, ethnic, cultural, and language diversity). Recruitment efforts should target local high schools, community colleges, ethnic community organizations and ethnic media to encourage minority youth into law enforcement careers.*

Implementation Status: Many police departments attempt to recruit minorities, however, they have encountered many obstacles. Among them being the lack of resources to actively recruit, the lack of interest on the part of minorities to go into law enforcement, and of those minorities that are interested, many do not meet the hiring standards.

3. *Peace Officer Standards and Training (POST) and law enforcement agencies should adopt a proven evaluation instrument that can help screen all applicants for predisposition towards racial or ethnic biased behaviors. The tool should be an indicator of possible future job performance and not simply a measure of personal beliefs.*

Implementation Status: There is not a standard evaluation instrument used by all police departments. If one can be made available, at little or no cost, the association will be happy to encourage and facilitate the agency use.

TRAINING

- 1b. *Law enforcement diversity training should be non-repetitive and offer a variety of lesson plans throughout the year, such as:*
 - *Race Versus Culture*
 - *Hate Groups and Hate Crimes*
 - *Gender as a Unique Cultural Heritage*
 - *Domestic Violence Training*
 - *Sexual Harassment on the Force*
 - *Rape Survivor Awareness*

- *Understanding One’s Own Biases*
- *Consequences for Racial Bias on the Job: Can I Be Sued?*

1c. *Cultural diversity training should address the specific needs of law enforcement. This training should focus on cultural competency, not only awareness and sensitivity. It should provide opportunities for various ethnic groups to teach officers about the culture. The Utah Chiefs of Police Association, Utah Sheriffs Association, and Peace Officer Standards and Training (POST), should create a curriculum for law enforcement.*

Implementation Status: The Utah Chiefs of Police Association has spent considerable time and effort to develop a “Bias Based Policing” training module to teach officers to conduct culturally appropriate traffic stops. This course has been taught to 40 police trainers throughout the state and these trainers will in turn teach the subject to their departments and others as requested. A separate training program on cultural diversity is also taught to and by police officers from different parts of the state. The association will continue to encourage departments to avail themselves of these courses.

2a. *Upcoming annual conferences for chiefs and sheriffs should have diversity issues as a main focus.*

Implementation Status: The Chiefs and Sheriffs have two conferences each year. Due to the large variety of training needs and the short time all Chiefs and Sheriffs come together it is unlikely that diversity issues will ever be the main focus simply because it is not a major issue compared to the other issues facing law enforcement executives. However, the Association is committed to making this subject one that is discussed in each session.

2b. *Administrative personnel, including chiefs and sheriffs, should be required to complete additional training, at least yearly, regarding issues related to managing a diverse workforce.*

Implementation Status: This recommendation is currently not required. The statute requires an in service requirement of 40 hours of training per year. The administrators or officers may choose any subject they like for those 40 hours as long as it is approved by the Chief or Sheriff. The first step to implementation is to bring this subject up as a training point at our Executive Developments Institutes held twice a year.

INTERPRETATION

- 1. *All law enforcement agencies should ensure effective interpreter services at arrest, booking, and at the complaint process. Strategies should include:***
- *development of minimal interpreter standards,*
 - *utilization of the AT&T Language Line*

- *language training opportunities for law enforcement, including tuition awards and in-house training, and*
- *use of volunteers to provide assistance with both knowledge of language and culture*

Implementation Status: Currently the only interpretation service that most departments utilize is if someone on the department or a community volunteer who has the language needed, is called out to interpret. A possible solution would be to have a community campaign to find people with second languages and ask if they would be willing to be called out at any time to provide those services. This possible solution will be considered as a project by the association. The Chiefs Association is also attempting to secure a subscription to a statewide language services telephone line that all police departments can access at low cost. This line is currently utilized by larger departments, but this effort is intended to assist the smaller departments.

COMMUNITY RESOURCES/OUTREACH

3. *All elements of the criminal and juvenile justice system should collaborate to provide the public and schools with information to better understand our law enforcement and justice system in order to enhance public trust and confidence. This should include:*
 - *law enforcement complaint process,*
 - *judicial complaint process,*
 - *other employee complaint process,*
 - *annual report on minority bar, and*
 - *web site information on minority bar and judges, to include tribal courts.*

Implementation Status: Many municipal police departments and Sheriffs departments have “School Resource Officers.” These officers teach these very subjects as well as try to recruit minorities. This method however, is budget driven and is not in existence in every high school.

8. *Criminal and juvenile justice entities should establish and maintain ongoing partnerships with community institutions from local government, to civic groups, to religious organizations, to local leaders in order to best meet the community’s needs.*

Implementation Status: This recommendation has not been implemented.

COMPLAINT PROCESSES

1. *At a minimum, all law enforcement agencies in Utah should have a written complaint review process in place.*

Implementation Status: All law enforcement agencies in Utah do have a written complaint review process in place. The problem is that a citizen may complain about how he/she is treated

by an officer, but the complaint is reviewed by other officers/administrators within the department and the complainant does not feel he or she receives a fair hearing. Some civil rights complaints are reviewed by the FBI. However, this rarely occurs.

ADMINISTRATION

- 1. Utahns should be provided a safe and central location to learn more about hate groups and hate motivated violence, to receive information and education on recognizing, reporting, investigating, prosecuting, and punishing of hate crimes, and to report complaints about the handling of their cases.***

Implementation Status: Law enforcement has supported hate crime legislation every year it has been presented in the legislature. Law enforcement also takes complaints about hate motivated violence. Due to budgeting priorities, information and education campaigns are not generally done.

- 2. Law enforcement administrators and directors should not tolerate police officer conduct in decision making at any level based solely on race or ethnicity.***

Implementation Status: Police administrators do not tolerate officer misconduct, including misconduct based on race or ethnicity. If there are cases of abuse the administrator usually does not find out about it. All departments in the state now have policies that prohibit “Racial Profiling” or any conduct based solely on race or ethnicity. As of January 2003, state law requires these procedures to be in place.

- 3. Law enforcement agencies should adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by consideration of race, color, ethnicity, age or gender and would constitute a violation of the civil rights of that person.***

Implementation Status: The Utah Chiefs of Police Association has had a model “Racial Profiling Policy” on its web site, www.utahchiefs.org over a year. Most departments have used this model policy to adopt their own policy.

- 4. Law enforcement agencies should seek funding necessary to install video cameras with audio capability to be used in patrol vehicles and micro-cassette recorders to be utilized on citizen contacts away from the patrol vehicle in order to ensure against profiling based on race and ethnicity.***

Implementation Status: Video cameras are a high priority for all police departments and they are obtaining them as soon as budgets will allow. Police officers want these cameras to be able to show the court what really happened on an arrest, rather than the defendant’s version of what

happened. I think this recommendation will be implemented in the near future without any outside efforts.

DATA

1. ***The race and ethnicity of crime victims should be maintained electronically in databases so that further studies of minority crime victims are possible in the future.***

Implementation Status: This recommendation will probably take legislation to enact. Cost and procedural changes make this a difficult recommendation to implement.

2. ***Individual law enforcement agencies should track yearly the following data related to complaint processes:***
 - ***Review board members' race and ethnicity,***
 - ***Review board members' length of service,***
 - ***The officer's race/ethnicity,***
 - ***The complainant's race/ethnicity, and***
 - ***The overall number of police abuse complaints filed and their dispositions.***

Implementation Status: Most departments do not have review boards. The number of complaints are so few that most cases of officer abuse is handled by the Chief.

3. ***Law enforcement agencies should keep not only accurate, but readily compilable, accessible and reviewable racial and ethnic data on all stops (traffic and pedestrian), searches, citations, arrests, and citizen complaints. Stops should also include data collection about reason for stops (i.e. gang-related stops, traffic violations).***

Implementation Status: H.B. 101 "Racial Profiling" will go a long way to accomplish this goal. We recommend that we follow the provisions of this legislation to see if it will accomplish the desired results.

**Utah Sheriffs Association
Response to Recommendations of
Task Force on Racial and Ethnic Fairness**

WORKFORCE: RECRUITMENT/HIRING

1. ***Agencies in the state of Utah should establish and maintain Equal Employment Opportunity Plans***

Implementation Status: Twenty of the twenty-nine counties have a written EEOP and guidelines. State law determines level of personnel or Human Resource function required of counties (rural vs. urban).

2. ***Law enforcement agencies and Peace Officer Standards and Training (POST) should make efforts to have a workforce that is reflective of the diversity of the population they serve (including racial, ethnic, cultural, and language diversity). Recruitment efforts should target local high schools, community colleges, ethnic community organizations and ethnic media to encourage minority youth into law enforcement careers.***

Implementation Status: For most counties, this is a goal. Various counties indicate a range of recruitment efforts, which include:

- School Resource Officers in elementary, middle, and high schools
- Presentations to ethnic groups
- Explorer POSTS

Utah Sheriffs Association attends job fairs and recruitment opportunities at various campus sites around the intermountain west on behalf of all Utah Counties.

3. ***Peace Officer Standards and Training (POST) and law enforcement agencies should adopt a proven evaluation instrument that can help screen all applicants for predisposition towards racial or ethnic biased behaviors. The tool should be an indicator of possible future job performance and not simply a measure of personal beliefs.***

Implementation Status: Most counties currently do not have easy access to this resource. Cost is a prime consideration for most sheriffs. Most reliable instruments, raters, etc., are often found from out-of-state vendors. All counties perform a background investigation of recruits. They differ in scope and depth. A few counties use a psychological profile or character trait assessment instrument.

TRAINING

- 1a. *Peace Officer Standards and Training (POST) certified officers should be required to complete a minimum of four (4) hours per year of diversity training, as part of its forty hour (40) continuing education requirement.***

Implementation Status: While this is not directed towards the Sheriffs' Association, the Sheriffs' Association can and will provide substantial support toward completion of this goal through exercising its numerous votes on POST's governing council, and through mandating participation in presently available training for Sheriffs' deputies.

- 1b. *Law enforcement diversity training should be non-repetitive and offer a variety of lesson plans throughout the year, such as:***

- ***Race Versus Culture***
- ***Hate Groups and Hate Crimes***
- ***Gender as a Unique Cultural Heritage***
- ***Domestic Violence Training***
- ***Sexual Harassment on the Force***
- ***Rape Survivor Awareness***
- ***Understanding One's Own Biases***
- ***Consequences for Racial Bias on the Job: Can I Be Sued?***

Implementation Status: Again while this is a work in progress and not directed towards the Sheriffs' Association, the association can and will provide substantial support toward completion of this goal through exercising its numerous votes on POST's governing council, and through mandating participation in presently available training for Sheriffs' deputies.

- 1c. *Cultural diversity training should address the specific needs of law enforcement. This training should focus on cultural competency, not only awareness and sensitivity. It should provide opportunities for various ethnic groups to teach officers about the culture. The Utah Chiefs of Police Association, Utah Sheriffs Association, and Peace Officer Standards and Training (POST), should create a curriculum for law enforcement.***

Implementation Status: The Sheriffs' Association fully supported the inclusion of new cultural competence training in the POST Basic Training Curriculum in 2001. The Sheriffs' Association can provide substantial support toward completion of this goal mandating participation in presently available training for Sheriffs' deputies.

- 2a. *Upcoming annual conferences for chiefs and sheriffs should have diversity issues as a main focus.***

Implementation Status: The Sheriffs EDI Conference in September 2002 also addressed diversity issues. There are efforts to create a “Command College” with Utah Chiefs and Sheriffs along with allied state agencies.

- 2b. *Administrative personnel, including chiefs and sheriffs, should be required to complete additional training, at least yearly, regarding issues related to managing a diverse workforce.***

Implementation Status: Past Sheriffs conference (September 2001) had a “workforce diversity track” for managers.

INTERPRETATION

- 1. *All law enforcement agencies should ensure effective interpreter services at arrest, booking, and at the complaint process. Strategies should include:***
- *development of minimal interpreter standards,*
 - *utilization of the AT&T Language Line*
 - *language training opportunities for law enforcement, including tuition awards and in-house training, and*
 - *use of volunteers to provide assistance with both knowledge of language and culture*

Implementation Status: The Interpreter services at arrest, booking and at the complaint process are:

Arrest—this will be the most difficult to accomplish statewide in a time sensitive manner and in relation to the location of arrest.

Booking/Complaint process: will vary greatly from county to county. However, most (if not all) counties will have access to some type of interpreter service over time. There is also access to the AT&T Language Line, although cost is a major concern.

In addition, there are incentive programs for bi-lingual deputies/officers and most counties have provided some level of minority language training to staff (primarily in Spanish). Finally, Dispatch Resource lists exist which identify officer/deputy capabilities. Agencies have been willing to “share the resource”.

COMMUNITY RESOURCES/OUTREACH

3. *All elements of the criminal and juvenile justice system should collaborate to provide the public and schools with information to better understand our law enforcement and justice system in order to enhance public trust and confidence. This should include:*
- *law enforcement complaint process,*
 - *judicial complaint process,*
 - *other employee complaint process,*
 - *annual report on minority bar, and*
 - *web site information on minority bar and judges, to include tribal courts.*

Implementation Status: Sheriffs have staffed secondary schools with School Resource Officers. School districts have implemented U.S. Government and law classes, vocational law enforcement classes, and have used Sheriffs Office personnel as guest speakers. In addition, some counties offer Citizens Academies, Town Meetings, Speakers Bureaus, and the Utah Sheriffs Association provides talking point information each quarter.

8. *Criminal and juvenile justice entities should establish and maintain ongoing partnerships with community institutions from local government, to civic groups, to religious organizations, to local leaders in order to best meet the community's needs.*

Implementation Status: This has not been implemented to our best knowledge.

COMPLAINT PROCESSES

1. *At a minimum, all law enforcement agencies in Utah should have a written complaint review process in place.*

Implementation Status: Approximately seventy percent of the counties have a written complaint procedure/process.

2. *The Peace Officer Standards and Training (POST) Council should establish a model complaint process for law enforcement agencies. The POST Council should take into account the following issues:*

- A. *Every law enforcement agency should have a Citizen's Review Board or a similar review process that investigates allegations of excessive force and other allegations of substantial civil rights violations. This review board should represent a cross section of the community not employed by law enforcement.*
- B. *Every law enforcement agency should complete the review of the complainant's investigation within a reasonable time period and include a written response*

with supporting testimony or documents to justify the law enforcement agency's actions or inactions.

- C. Every law enforcement agency should allow a complainant to file a law enforcement abuse complaint via the telephone.*
- D. Law enforcement agencies should accept anonymous complaints and should include a procedure informing anonymous complainants of the limits of investigations that are inherent to anonymous complaints.*
- E. Law enforcement agencies should allow the complainant to review, for verification of accuracy, a copy of his/her testimony.*
- F. Every law enforcement agency should have the complaint reviewed by the officer's supervisor and by someone other than the officer's immediate supervisor.*
- G. Every law enforcement agency should list general categories of common complaints (ie. verbal, physical, harassment, action conducted by the law enforcement officer) on the complaint process form.*
- H. Law enforcement agencies should work to instill public confidence in the review process by keeping the public informed as to the total numbers and types of complaints filed per year, the types of dispositions on those complaints, as well as information about the complaint process itself.*
- I. Literature describing the complaint process, the complainant's rights to appeal, and the consequences for filing false complaints should be printed in English as well as other languages, and should be available at law enforcement agencies in plain view.*

Implementation Status: The International Association of Chiefs of Police (IACP) Model Complaint policy is taught in the Internal Affairs and First Line classes. This Model Policy covers most of the concerns raised by the Task Force. The National Sheriffs Association, IACP, Police Executive Research Forum (PERF), National Organization of Black Law Enforcement Executives (NOBLE), Commission on Accreditation of Law Enforcement Association (CALEA) and other professional organizations support this policy. The process to develop Citizen Review Boards raises many issues. For instance, we must determine if the members are trained or non-trained. At this time, no counties have a Citizen Review Board in place, but one is underway in Weber County.

ADMINISTRATION

1. ***Utahns should be provided a safe and central location to learn more about hate groups and hate motivated violence, to receive information and education on recognizing, reporting, investigating, prosecuting, and punishing of hate crimes, and to report complaints about the handling of their cases.***

Implementation Status: This has not been implemented to our best knowledge.

2. ***Law enforcement administrators and directors should not tolerate police officer conduct in decision making at any level based solely on race or ethnicity.***

Implementation Status: The Sheriffs Association has a no-tolerance policy for biased conduct based on race/ethnicity. Some counties, such as Weber County, are in the process of accreditation through CALEA. Finally, quarterly business meetings and round table discussions with Chiefs and Sheriffs allow better coordination.

3. ***Law enforcement agencies should adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by consideration of race, color, ethnicity, age or gender and would constitute a violation of the civil rights of that person.***

Implementation Status: The Model Racial Profiling policy was presented, trained, and adopted by the Association in the third quarter of 2001.

4. ***Law enforcement agencies should seek funding necessary to install video cameras with audio capability to be used in patrol vehicles and micro-cassette recorders to be utilized on citizen contacts away from the patrol vehicle in order to ensure against profiling based on race and ethnicity.***

Implementation Status: Video cameras are not in all cars, although most sheriffs/chiefs/directors who currently use them would prefer to have them in all patrol cars. Alcohol funds are being currently used to assist agencies in obtaining cameras, primarily for DUI enforcement.

DATA

1. ***The race and ethnicity of crime victims should be maintained electronically in databases so that further studies of minority crime victims are possible in the future.***

Implementation Status: This has not been implemented to our best knowledge.

2. ***Individual law enforcement agencies should track yearly the following data related to complaint processes:***
 - *Review board members' race and ethnicity,*
 - *Review board members' length of service,*
 - *The officer's race/ethnicity,*
 - *The complainant's race/ethnicity, and*
 - *The overall number of police abuse complaints filed and their dispositions.*

Implementation Status: This has not been implemented to our best knowledge.

3. ***Law enforcement agencies should keep not only accurate, but readily compilable, accessible and reviewable racial and ethnic data on all stops (traffic and pedestrian), searches, citations, arrests, and citizen complaints. Stops should also include data collection about reason for stops (ie. gang-related stops, traffic violations).***

Implementation Status: This has not been implemented to our best knowledge.

4. ***The Utah Department of Public Safety should modify and improve the Bureau of Criminal Investigation database. Lack of complete data prevents a thorough understanding of the extent of racial bias in the system. The Utah Sheriffs' Association, the Utah Chiefs of Police Association, Peace Officer Standards and Training (POST), and the Bureau of Criminal Investigation should give strong support for maintaining a statewide, standardized law enforcement software which would consistently report crime and arrest information. These organizations should seek complete and regular reporting from all law enforcement agencies in the state.***

Implementation Status: This has not been implemented to our best knowledge. However, standardization, automation, interaction of databases are goals that many counties are working towards. Interoperability is a long-term goal. Major urban areas are coming together in a shared RMS/JMS/CAD solution. Joint/shared system of improvement projects are encouraged.

RESEARCH

1. ***The criminal and juvenile justice system should implement management information systems that produce information that captures "what works" predicated on guiding principles that provide for a pro-active problem solving approach in dealing with the offender and the offender's family.***

Implementation Status: This has not been implemented to our best knowledge.

3. ***The Commission on Criminal and Juvenile Justice should study law enforcement data regarding racial profiling, once sufficient data has been collected by local law enforcement agencies (ie. Salt Lake Police Department, St. George Police Department), and should publish their findings.***

Implementation Status: This has not been implemented to our best knowledge.

4. ***Law enforcement, in conjunction with other agencies, should support research to define and identify the nature and extent, if any, of racial profiling.***

Implementation Status: This has not been implemented to our best knowledge.

Peace Officer Standards and Training (“POST”) Response to Recommendations of Task Force on Racial and Ethnic Fairness

Peace Officer Standards and Training (“POST”) is a unique law enforcement agency in several respects. Although POST’s daily operations are executed by sworn peace officers of the Utah Department of Public Safety, POST programs and activities are governed by the POST Council. The Council consists of at-large members appointed by the Governor, elected mayors and county commissioners, and state, federal and local law enforcement executives. POST is also different from other law enforcement agencies because our direct clients are police and sheriffs’ departments. POST does not select the cadets that it trains; rather, they are sent to POST by a wide variety of law enforcement agencies throughout Utah. Although POST may influence many officers, POST officers have little direct contact with the public. Accordingly, POST may only influence and persuade for adoption of many of the recommendations.

WORKFORCE: RECRUITMENT/HIRING

1. ***Agencies in the State of Utah should establish and maintain Equal Employment Opportunity Plans.***

Response: POST participates in the EEO plan of the Department of Public Safety.

2. ***Law enforcement agencies and Peace Officer Standards and Training (POST) should make efforts to have a workforce that is reflective of the diversity of the population they serve (including racial, ethnic, cultural, and language diversity). Recruitment efforts should target local high schools, community colleges, ethnic community organizations and ethnic media to encourage minority youth into law enforcement careers.***

Response: POST endeavors to recruit training staff, both full-time, in-house POST staff and adjunct instructors, that reflect the diversity of the State of Utah. POST is limited in recruiting from a limited pool of highly qualified officers with significant law enforcement work experience and formal education. POST has consistently worked toward a diverse support staff and enjoys diversity in its technical (non-sworn) staff. Through the Police Corps program, a component of POST, we aggressively recruit candidates with college degrees among women and minority communities.

3. ***Peace Officer Standards and Training (POST) and law enforcement agencies should adopt a proven evaluation instrument that can help screen all applicants for predisposition towards racial or ethnic biased behaviors. The tool should be an indicator of possible future job performance and not simply a measure of personal beliefs.***

Response: The cadets trained at POST are selected by a variety of city, county and state law enforcement agencies. POST has no formal role in selecting a cadet applicant, other than assuring that statutory requirements are met. POST uses peer evaluations and staff evaluations to alert law enforcement agencies to potential biases. On occasion, POST's evaluations have been the genesis of dismissal of cadets for improper behaviors motivated by bias.

4. ***The judiciary and the legal community as a whole should enhance their current minority recruitment efforts and work with minority communities to attract a larger pool of qualified minority applicants.***

Response: See # 2 above.

TRAINING

- 1a. ***Peace Officer Standards and Training (POST) certified officers should be required to complete a minimum of four (4) hours per year of diversity training, as part of its forty hour (40) continuing education requirement.***

Response: POST recognizes the importance of continuing cultural competence education. To this end, POST offers high quality in-service training in 4 and 8 hour segments to law enforcement agencies. Individual law enforcement agency executives have discretion to determine the annual in-service curriculum, limited by statutory mandates. POST encourages agencies to sponsor cultural competence and related training, but is not in a position to mandate such curriculum.

- 1b. ***Law enforcement diversity training should be non-repetitive and offer a variety of lesson plans throughout the year, such as:***

- ***Race Versus Culture***
- ***Hate Groups and Hate Crimes***
- ***Gender as a Unique Cultural Heritage***
- ***Domestic Violence Training***
- ***Sexual Harassment on the Force***
- ***Rape Survivor Awareness***
- ***Understanding One's Own Biases***
- ***Consequences for Racial Bias on the Job: Can I Be Sued?***

Response: POST's new Cultural Competence curriculum is highly regarded by professional trainers and well-received by cadets. The foregoing areas are discussed in the curriculum, and are also addressed in the following courses: Domestic Violence, Peace Officer Liability, Victimology, Sex Crimes.

- 1c. ***Cultural diversity training should address the specific needs of law enforcement. This training should focus on cultural competency, not only awareness and sensitivity. It***

should provide opportunities for various ethnic groups to teach officers about the culture. The Utah Chiefs of Police Association, Utah Sheriffs Association, and Peace Officer Standards and Training (POST), should create a curriculum for law enforcement.

Response: POST has created a new curriculum employing adult learning principles and many interactive exercises. POST assisted in the development of the Utah Multi-Agency Cultural Competence Curriculum. All POST cultural competence instructors are required to complete the UMACCC Train the Trainer. In addition, POST has an in-house trainer qualified to train others to present the Cultural Competence curriculum.

2a. Upcoming annual conferences for chiefs and sheriffs should have diversity issues as a main focus.

Response: POST does not direct or influence the program of the chiefs' and sheriffs' conferences.

2b. Administrative personnel, including chiefs and sheriffs, should be required to complete additional training, at least yearly, regarding issues related to managing a diverse workforce.

Response: POST cannot mandate an agency's in-service training; nonetheless, POST is presently able to support agencies wishing to implement management and line in-service training by providing instructors and curriculum.

INTERPRETATION

- 1. All law enforcement agencies should ensure effective interpreter services at arrest, booking, and at the complaint process. Strategies should include:***
- development of minimal interpreter standards,***
 - utilization of the AT&T Language Line***
 - language training opportunities for law enforcement, including tuition awards and in-house training, and***
 - use of volunteers to provide assistance with both knowledge of language and culture***

Response: POST has recently proposed a doubling of the hours in the Spanish language curriculum. POST is not involved in individual agency decisions concerning translation strategies.

COMMUNITY RESOURCES/OUTREACH

3. ***All elements of the criminal and juvenile justice system should collaborate to provide the public and schools with information to better understand our law enforcement and justice system in order to enhance public trust and confidence. This should include:***
 - ***law enforcement complaint process,***
 - ***judicial complaint process,***
 - ***other employee complaint process,***
 - ***annual report on minority bar, and***
 - ***web site information on minority bar and judges, to include tribal courts.***

Response: POST is open to school group tours, and often hosts high schools students in government and criminal justice classes. Staff members use these opportunities to address recruiting issues. As a part of the Department of Public Safety, POST supports the DPS minority recruiting effort by providing testing, counseling and physical fitness training to prospective DPS recruits.

8. ***Criminal and juvenile justice entities should establish and maintain ongoing partnerships with community institutions from local government, to civic groups, to religious organizations, to local leaders in order to best meet the community's needs.***

Response: POST's client base is comprised of the law enforcement agencies of the state. POST supports agencies in their community policing and community outreach efforts by providing appropriate training. Additionally, POST staff serve individually in many community organizations.

COMPLAINT PROCESSES

1. ***At a minimum, all law enforcement agencies in Utah should have a written complaint review process in place.***
2. ***The Peace Officer Standards and Training (POST) Council should establish a model complaint process for law enforcement agencies. The POST Council should take into account the following issues:***
 - A. ***Every law enforcement agency should have a Citizen's Review Board or a similar review process that investigates allegations of excessive force and other allegations of substantial civil rights violations. This review board should represent a cross section of the community not employed by law enforcement.***
 - B. ***Every law enforcement agency should complete the review of the complainant's investigation within a reasonable time period and include a written response***

with supporting testimony or documents to justify the law enforcement agency's actions or inactions.

- C. Every law enforcement agency should allow a complainant to file a law enforcement abuse complaint via the telephone.*
- D. Law enforcement agencies should accept anonymous complaints and should include a procedure informing anonymous complainants of the limits of investigations that are inherent to anonymous complaints.*
- E. Law enforcement agencies should allow the complainant to review, for verification of accuracy, a copy of his/her testimony.*
- F. Every law enforcement agency should have the complaint reviewed by the officer's supervisor and by someone other than the officer's immediate supervisor.*
- G. Every law enforcement agency should list general categories of common complaints (ie. verbal, physical, harassment, action conducted by the law enforcement officer) on the complaint process form.*
- H. Law enforcement agencies should work to instill public confidence in the review process by keeping the public informed as to the total numbers and types of complaints filed per year, the types of dispositions on those complaints, as well as information about the complaint process itself.*
- I. Literature describing the complaint process, the complainant's rights to appeal, and the consequences for filing false complaints should be printed in English as well as other languages, and should be available at law enforcement agencies in plain view.*

Response: POST has a complaint and investigation process, entirely independent of any law enforcement agency's complaint process. POST works with individual agencies in investigating complaints of bias and other wrongful conduct. POST provides an extensive training course for agencies in the processing and investigation of complaints against officers. POST requires successful completion of this course prior to granting POST Mid-Management Certification to a supervisor or supervisor candidate. In the event that an agency shirks its duty to investigate and act in cases of alleged bias, POST exercises its independent authority to investigate and, where appropriate, take independent disciplinary action.

ADMINISTRATION

- 1. Utahns should be provided a safe and central location to learn more about hate groups and hate motivated violence, to receive information and education on recognizing,*

reporting, investigating, prosecuting, and punishing of hate crimes, and to report complaints about the handling of their cases.

2. *Law enforcement administrators and directors should not tolerate police officer conduct in decision making at any level based solely on race or ethnicity.*
3. *Law enforcement agencies should adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by consideration of race, color, ethnicity, age or gender and would constitute a violation of the civil rights of that person.*
4. *Law enforcement agencies should seek funding necessary to install video cameras with audio capability to be used in patrol vehicles and micro-cassette recorders to be utilized on citizen contacts away from the patrol vehicle in order to ensure against profiling based on race and ethnicity.*

Response: POST participated in the extensive efforts of the Law Enforcement Legislative Coordinating Committee to pass legislation addressing racial profiling. POST has also assisted in drafting and presenting a model racial profiling policy for all Utah law enforcement agencies. Presently, POST has proposed a 2 hour course in Basic Training, and a 4 hour course in In-Service Training, addressing racial profiling. This course is entitled “Lawful Traffic Stops” and qualified presenters are being trained through a cooperative effort with the Chiefs of Police Association.

DATA

1. *The race and ethnicity of crime victims should be maintained electronically in databases so that further studies of minority crime victims are possible in the future.*
2. *Individual law enforcement agencies should track yearly the following data related to complaint processes:*
 - *Review board members’ race and ethnicity,*
 - *Review board members’ length of service,*
 - *The officer’s race/ethnicity,*
 - *The complainant’s race/ethnicity, and*
 - *The overall number of police abuse complaints filed and their dispositions.*
5. *Law enforcement agencies should keep not only accurate, but readily compilable, accessible and reviewable racial and ethnic data on all stops (traffic and pedestrian), searches, citations, arrests, and citizen complaints. Stops should also include data collection about reason for stops (ie. gang-related stops, traffic violations).*

6. ***The Utah Department of Public Safety should modify and improve the Bureau of Criminal Investigation database. Lack of complete data prevents a thorough understanding of the extent of racial bias in the system. The Utah Sheriffs' Association, the Utah Chiefs of Police Association, Peace Officer Standards and Training (POST), and the Bureau of Criminal Investigation should give strong support for maintaining a statewide, standardized law enforcement software which would consistently report crime and arrest information. These organizations should seek complete and regular reporting from all law enforcement agencies in the state.***

Response: POST supports the efforts of the Department of Public Safety, Bureau of Criminal Identification to provide appropriate data for analysis of complaints and allegations of profiling. POST is not directly involved with this type of data collection and analysis.

RESEARCH

1. ***The criminal and juvenile justice system should implement management information systems that produce information that captures "what works" predicated on guiding principles that provide for a pro-active problem solving approach in dealing with the offender and the offender's family.***
2. ***The Commission on Criminal and Juvenile Justice should sponsor research into the alleged practice of stacking of charges to determine whether minorities receive more charges than non-minorities.***
3. ***The Commission on Criminal and Juvenile Justice should study law enforcement data regarding racial profiling, once sufficient data has been collected by local law enforcement agencies (ie. Salt Lake Police Department, St. George Police Department), and should publish their findings.***
4. ***Law enforcement, in conjunction with other agencies, should support research to define and identify the nature and extent, if any, of racial profiling.***
5. ***The Driver License Division of the Department of Public Safety should request that each applicant for a driver license or state identification card state his or her race and ethnicity in accordance with the categories established by the U.S. Census.***

Response: POST encourages its staff to increase their awareness of current research. Key staff members participate in community and professional committees and boards to ensure that POST is kept current on developments and trends in the community and profession. Particular emphasis is placed on currency in cultural competence and community policing. However, POST does not currently have research and analysis missions.

**Salt Lake Legal Defender Association
Response to Recommendations of
Task Force on Racial and Ethnic Fairness**

WORKFORCE: RECRUITING/HIRING

1. *Agencies in the state of Utah should establish and maintain Equal Employment Opportunity Plans*

Response: The Salt Lake Legal Defenders Association is an equal opportunity employer. The Executive Director, personally, interviews and hires the staff members and has been a member of the Task Force for several years. Additionally, the Executive Director has represented this office on many committees within the state dealing with defense issues.

4. *The judiciary and the legal community as a whole should enhance their current minority recruitment efforts and work with minority communities to attract a larger pool of qualified minority applicants.*

Response: The office has placed ads for professional staff members in minority publications, has attended or had his staff attend job fairs at both Utah law schools and has participated in high school job fairs. The office has been sensitive to the need for minority hiring due to the large numbers of clients of color and varied ethnic background that is serviced by this organization. In the area of non-professional employment hiring, this office has always been at the forefront. This office has bilingual interpreters to assist in the representation of our clients. We have instituted video conferencing within the Utah Department of Corrections to enhance our contact with clients that are in custody.

TRAINING

- 3a. *The Utah Supreme Court's Board of Mandatory Continuing Legal Education should require attorneys practicing in the criminal and juvenile justice systems to complete cultural competency training on a regular basis.*

Response: The Executive Director has made one of his priorities the training of his staff in the area of racial and ethnic sensitivity. Beginning in 2000, the entire staff was given a four hour presentation on ethnic and racial issues by a professor from the University of Utah. Each year, at least one session of the year-long training schedule is dedicated to an issue involving ethnic minorities. These seminars have addressed: Immigration issues, federal versus state prosecutions, language barriers and how to overcome them, racial differences in language and interpretation.

4. *The court and counsel should, as a matter of policy, warn defendants, who agree to deportation as a condition of the sentence, of the harsh consequences under federal*

law for violating the condition not to return to the United States without permission from the government.

Response: This office has trained its lawyers to advise each client with immigration issues concerning the possibility that a plea today may cause serious ramifications in the future, including those of future lawful immigration.

COMMUNITY RESOURCES/OUTREACH

3. ***All elements of the criminal and juvenile justice system should collaborate to provide the public and schools with information to better understand our law enforcement and justice system in order to enhance public trust and confidence. This should include:***
- ***law enforcement complaint process,***
 - ***judicial complaint process,***
 - ***other employee complaint process,***
 - ***annual report on minority bar, and***
 - ***web site information on minority bar and judges, to include tribal courts.***

Response: Individual attorneys within the office have participated in “Law Day,” each May. When requested to attend other functions, this office has always been available and will continue to be available in the future.

8. ***Criminal and juvenile justice entities should establish and maintain ongoing partnerships with community institutions from local government, to civic groups, to religious organizations, to local leaders in order to best meet the community’s needs.***

Response: The Salt Lake Legal Defender Association remains open to the partnerships expressed above. In the future, the office will be investigating any involvement in civic groups that would assist us in representing our clients more completely and competently.

ADMINISTRATION

1. ***Utahns should be provided a safe and central location to learn more about hate groups and hate motivated violence, to receive information and education on recognizing, reporting, investigating, prosecuting, and punishing of hate crimes, and to report complaints about the handling of their cases.***

Response: Not addressed

6. ***Public defender contracts should be awarded to attorneys who have experience and competency in criminal law.***

Response: The Executive Director and Board have made the Salt Lake Legal Defender Association the premier legal defense office in the State of Utah. This office handles more volume and more difficult cases more often than any other privately operated, publicly funded agency in the state. The attorneys, as a group, have more experience than any other criminal defense office in the state.

- 7. Law enforcement, prosecutors, and judges should not be decision makers in the award of public defender contracts. Input from others should be sought by those who decide the awards.***

Response: Law enforcement, prosecutors, and judges do not have a decision making role to play in awarding the public defender contract for Salt Lake County. It would be naïve to say that those agencies are not integral in the positioning of this office as the contract placement for legal defense. This office has had in the past and continues to have the support of those agencies for its work.

- 8. The budget for appointed attorneys should be separate from the budget for county prosecutors. Since funding a public defender office with funds from the prosecutor budget can create the appearance of a conflict of interest, local governments should ensure that the budgets are separate.***

Response: The budget for this office is separate from the prosecutor's office budget.

- 9. Public defender and prosecutor caseloads should be lightened so as to allow more attention to individual cases.***

Response: Although case loads are substantial, through directed efforts of both the board and the director, the loads have decreased or stayed constant for the last several years.

- 10. Comparable pay for comparable experience should be given to public defenders and prosecutors so that lateral transfers within the system are possible.***

Response: Comparable pay is still only a goal. Prosecutors, as a whole, are slightly elevated in pay schedule in relation to this office.

- 11. Public defenders and all criminal defense attorneys should provide their clients with referrals to other agencies that can assist in resolving problems that are not legal in nature and thus outside the expertise of the attorneys.***

Response: This office will, when appropriate, refer cases or issues to other agencies that may be able to assist. It would not be fair to say that those "other," agencies are numerous or capable of assisting in many cases.

DATA

- 1. The race and ethnicity of crime victims should be maintained electronically in databases so that further studies of minority crime victims are possible in the future.***

Response: The office is committed to compiling this data. We are now asking each new client to “self report,” their race and/or ethnicity in the first interview we have with them. That information is then placed in the files and will be placed in our network computer file.

- 6. Salt Lake Legal Defender’s Association and other providers of public defender services in Utah should keep track of the race, ethnicity and primary language of each defendant served. These data should be kept electronically, if possible.***

Response: Each case referred to this office by the courts of Salt Lake County will have as one of its several questions, the issue of race and ethnicity. This information will then be kept with the other information on each case.

- 10. Criminal and juvenile justice agencies should conduct annual reviews as well as confidential exit interviews for employees that include a question regarding racial and ethnic fairness in the employee’s work environment.***

Response: Where exit interviews are held, a question of racial and ethnic fairness in the workplace will be noted.

RESEARCH

- 1. The criminal and juvenile justice system should implement management information systems that produce information that captures “what works” predicated on guiding principles that provide for a pro-active problem solving approach in dealing with the offender and the offender’s family.***

Response: This suggestion is now being considered by this office.

- 9. The State of Utah should conduct an assessment of how indigent defense services are conducted. The Task Force recommends the establishment of an Indigent Defense Review Council (IDRC) to be active for three years. Membership in the IDRC would be designated by the Legislature and would include one committee member from each judicial district in Utah, minority representation reflective of Utah’s overall population, as well as equal balance between prosecution and defense counsel, and others. IDRC would be charged with studying current delivery efforts in each county with specific attention to standards of fairness as applied to the representation of racial and ethnic minorities. IDRC would be state-funded, and its services divided as follows:***

Phase One: *Review existing policies and procedures, as well as historically relevant issues, related to statewide indigent defense.*

Phase Two: *Create a report of findings and recommendations for changes and improvements to existing policies and procedures based on the Phase One review. Include in the report the creation of broad statewide standards to apply to each individual county. At the end of Phase Two, the IDRC will report back to the Utah State Legislature regarding their findings and recommendations.*

Phase Three: *Implement and supervise the implementation of the changes and improvements recommended in Phase Two. Report progress and final findings and recommendations to the Utah State Legislature.*

IDRC's mission will be five-fold:

1. *To study the current delivery of indigent defense services throughout the state.*
2. *To establish standards for provision of indigent defense services statewide.*
3. *To apply those standards effectively and pragmatically to each individual county.*
4. *To monitor compliance with recommended standards.*
2. *To report to the Legislature with findings and recommendations.*

IDRC specifically should do the following:

1. *Conduct more detailed research into the specific situations of individual counties regarding caseloads and office resources.*
2. *Conduct more detailed research into the relationship between socio-economic status and race upon treatment by the criminal and juvenile justice system.*
3. *Seriously consider the impact of public defender resources upon racial and ethnic minority populations, particularly when the percentage of the county's minority population exceeds that of the state as a whole.*

Response: Within the Salt Lake Legal Defender Association is a division for writs and appeals for the indigent client. The division chief has been with the office for several years and brings a wealth of information and assistance to the appeal of convictions within the office.

10. *A statewide Appellate Public Defender's Office should be created, consistent with the recommendations of the Task Force of Appellate Representation of Indigent Defendants (September 14, 1994).*

Response: To the extent that this office can assist in this goal, we are doing so.

12. *More research and information about effective ways to punish hate crimes are needed including “models of intervention” such as mediation, education and training, more intensive probationary provisions, and offender treatment programs.*

Response: To the extent that this goal does not conflict with other ethical duties this office has, we are attempting to assist in its achievement.

Statewide Association of Public Attorneys Response to Recommendations of Task Force on Racial and Ethnic Fairness

The Statewide Association of Public Attorneys (SWAP) is a non-profit corporation which exists for the purpose of furthering the interest of state, county and local prosecutors and other public attorneys. The Association does not have any direct supervisory authority over any prosecutors. Generally, we are engaged in representing the prosecutors' interest before the legislature, rule-making bodies and policy-making committees throughout the state.

The Executive Director was the Association's representative to the Task Force and now serves on the Commission. Other prosecutors from the Salt Lake District Attorney's Office also served on the Task Force and various committees.

Hate Crimes

Early in the history of the Task Force a resolution was passed supporting changes to state law to create a meaningful hate crimes section. Utah has for several years had what is supposed to be a hate crimes law in Section 76-3-203.3. Although prosecutors have from time to time attempted to use that statute it has proved to be unworkable. In harmony with the request of the Task Force, SWAP took a leading role in assisting in the drafting and presentation of a hate crime reform bill to the legislature.

In 1999, Senator Pete Suazo filed Senate Bill 34 which would have created a penalty enhancement for crimes committed against persons due to actual or perceived race, religion, national origin, color, gender, sexual orientation, ethnicity or mental or physical disability. That bill was not well received and was adamantly opposed by many conservative groups as well as some ultra conservative groups. We worked with the Senator and assisted in coming up with a substitute bill. The substitute also failed.

The next year, SWAP assisted in the drafting and support of Senate Bill 14. That bill concentrated on the defendant's bias against a "group" and was an adaptation of a then existing Texas law. In 2001, Senate Bill 37 was another try at the same approach. After working with a number of senators, we were able to fashion a compromise measure which passed the Senate. With a great deal of political maneuvering it did not get a hearing in the House. Considerable political capital was expended on that effort including that of SWAP and the State Sentencing Commission. Opposition was also intensified.

During the next interim period, SWAP engaged in an all out effort to find a compromise measure based on a theory of civil rights enforcement which it was hoped would be accepted by the Republican majority and still satisfy many of the concerns regarding racially and biased-motivated crimes. With the help of Senator David Gladwell new approaches were tried and presented at the interim Judiciary Committee Meetings. At one particular meeting, it looked like progress might be made, the SWAP Executive Director gave a 20 minute presentation and then answered questions from the Committee for two hours. Committee members showed intense interest in solving this problem. Thereafter, an ultra-conservative spokesman expressed opposition to the measure without examination of its contents. At the next interim committee

meeting, previously interested legislators expressed “concerns” about the bill. This effort having obviously failed, the SWAP Executive Director was instructed to refocus energies and SWAP’s political capitol in other directions. During the 2002 General Session, Senator Alicia Suazo (having replaced her late husband) filed Senate Bill 64. Although SWAP conferred with her in the drafting of the bill SWAP did not expend resources toward what had, by this point, had become a symbolic effort.

Although SWAP expended considerable time and political resources on a losing effort, most prosecutors probably still agree that it was the right thing to have attempted.

Task Force Recommendations

In September, 2002, the Task Force issued its recommendations. SWAP responds to those which are directly related to prosecutors.

Representation Recommendations

WORKFORCE: RECRUITMENT/HIRING

- 1. Agencies in the state of Utah should establish and maintain equal employment opportunity plans.*

SWAP does not have control over these many agencies, but Salt Lake County, and other agencies which we have examined, do have equal employment opportunity plans. Some, such as Salt Lake County, are even implemented with considerable enthusiasm.

- 4. The judiciary and legal community as a whole should enhance their current minority recruitment efforts and work with minority communities to attract a larger pool of qualified minority applicants.*

SWAP has formed a Racial and Ethnic Fairness Subcommittee which has determined that the recruitment of minorities into prosecutorial positions is of primary importance. It is felt that the most productive effort is to encourage minority students at the two law schools to pursue prosecution careers. A Deputy Salt Lake District Attorney has begun efforts to do so and is coordinating that project.

TRAINING

- 3a. The Utah Supreme Court’s Board of Mandatory Continuing Legal Education should require attorneys practicing in the criminal and justice systems to complete cultural competency training on a regular basis.*

This goal has not been realized in the context of mandatory CLE, however, prosecutors plan to put on a program in the upcoming year regarding cultural competency. Several prosecutors have attended cultural competency training in order to assess its value. Mark Nash, who heads the

prosecutors training organization under the Attorney General's Office (the Utah Prosecution Council), attended cultural competency training for that purpose.

4. ***The court and counsel should, as a matter of policy, warn defendants, who agree to deportation as a condition of the sentence, of the harsh consequences under federal law for violating the condition not to return to the United States without permission from the government.***

Prosecutors are wary of adding any more elements to the warnings already given to the defendant by the court. We are in agreement, however, that defendants should understand the serious consequences under federal law of illegal re-entry.

ADMINISTRATION

7. ***Law enforcement, prosecutors and judges should not be decision makers in the award of public defender contracts. Input from others should be sought by those who decide the awards.***

Those awards are generally made by county governing bodies. There has long been discomfort among county and district attorneys who must represent the state in criminal matters and the county in civil matters. More than a decade ago, this reason was cited by the county attorneys in support of legislation which would allow counties to separate those two functions and have a district attorney for criminal matters and a county attorney for civil matters. However, county budgets and political considerations have prevented expansion of that concept.

8. ***The budget for appointed attorneys should be separate from the budget for county prosecutors. Since funding a public defender office with funds from the prosecutor budget can create the appearance of a conflict of interest, local governments should ensure that the budgets are separate.***

Defender contracts are typically separate from county attorney budgets for the reasons stated. County attorneys are required by law to review contracts and approve them as to form and legality. Discomfort with that necessity is not likely to be alleviated in the foreseeable future.

9. ***Public defender and prosecutor caseloads should be lightened so as to allow more attention to individual cases.***

We could not possibly agree more. The situation seems to be rapidly getting worse rather than improving.

10. ***Comparable pay for comparable experience should be given to public defenders and prosecutors so that lateral transfers within the system are possible.***

This is a sound concept. There is some movement between prosecution and defense within the system. It is not advisable, however, to attempt to tie their pay scales together since that would run contrary to the goals of the recommendations previously mentioned.

- 12. The Legislature, county and local governments should provide additional financial resources to bring all prosecutor and legal defense offices up to the equivalent provided to the Salt Lake District Attorney's Office and Salt Lake Legal Defender's Association.***

It is unlikely that the Utah State Legislature would provide funding to assist counties in increasing the pay of their attorneys. As much as our membership would love the idea of higher pay for rural prosecutors, those salaries are driven by the open marketplace.

DATA

- 1. The race and ethnicity of crime victims should be maintained electronically in databases so that further studies of minority victims are possible in the future.***

The thirty jurisdictions (29 counties plus the attorney general) who do felony cases do not enter all of their data into a single data base. It has been an ongoing project over the last several years of the Utah Prosecution Council to have a standardized case management system which also feeds into a standardized database. The current version of that case management system does have the capability of entering victim information including ethnicity if the prosecution office using the system opts to enter the data. It was, in fact, included for the reasons stated and in cooperation with the Task Force. At this point, however, only a few jurisdictions are entering the data and that particular portion is not being collected in an central repository.

Salt Lake County is the largest prosecutor of felony crimes in Utah and is not on the standardized system. Salt Lake County does collect victim information including ethnicity. The difficulty in retrieving it and correlating it with other data is considerable, but not impossible if the commission would like conduct a specific study.

- 10. Criminal and juvenile justice agencies should conduct annual reviews as well as confidential exit interviews for employees that include a question regarding racial and ethnic fairness in the employee's work environment.***

Most counties conduct annual training regarding discrimination in the workplace. Salt Lake County, for instance, conducts a very aggressive training program regarding sexual harassment and discrimination of all types including ethnic discrimination. It does not, however, conduct exit interviews to ask the questions suggested.

RESEARCH

11. The Statewide Association of Prosecutors (SWAP) and the Prosecution Council should sponsor a process that represents multiple perspectives to conduct research on whether racial and ethnic bias is reflected in prosecutorial decision making.

It appears that this is more easily suggested than accomplished. SWAP has consulted with the Social Research Institute at the University of Utah about the feasibility of studying racial disparity. Having had considerable experience in trying to study this issue in the system, he did not believe it would be possible to find enough criminal cases which would be virtually identical and then make a racial comparison of defendants ending up with a statistically significant number. We discussed the possibility of doing a study on artificial circumstance by giving the same police reports to various prosecutors and changing the ethnicity of victims, defendants, etc. The validity of such an approach is somewhat questionable.

The SWAP Racial and Ethnic Fairness Committee determined that effort is better spent on reviewing the process in which prosecutorial decisions are being made and looking for ways to minimize the impact of ethnicity of various parties. There has been a procedure in place for decades in most prosecution offices whereby the facts are presented to the screening attorney on a fact sheet which does not give the name of the persons involved. Pre-screening decision is essentially made by reviewing the statements of witnesses identified by number and other relevant evidence. It is not unusual to occasionally be surprised by the identity of the parties after a screening decision has been made. There are, of course, other decisions made by prosecutors such as plea negotiations where ethnic background is known.

There is a subjective impression among many prosecutors that certain ethnic groups are disadvantaged particularly in misdemeanor cases where prosecutors are not involved in the original charging of the defendant. In those cases, charges are made by the police officer who issues a citation.

There is further concern that some cultures are disadvantaged by being subjected to our legal system. Some prosecutors report that many Hispanic defendants feel it important to take responsibility for the mistakes they have made and pled guilty to all charges when most other people at least talk to the prosecutor and have some of the misdemeanor charges dismissed. It is the feeling of the SWAP Racial and Ethnic Fairness Subcommittee that this is one area which needs to be explored and culture sensitivity training provided for prosecutors throughout the state.

In an effort to response to this request from the Task Force, we have looked at studies in other states where there has been found to be bias in prosecutor decision-making. As it turns out, those studies all show that prosecutor bias becomes a factor where there is mandatory determinate sentencing. Utah has resisted going to determinate sentencing on the philosophical ground that such schemes only shift discretion forward to the prosecutor and away from the judge who ideally should have all sentencing information available at the time of sentence. It appears that we, in Utah, were smarter than we thought. States which have gone to mandatory sentencing in the hope

of eliminating racial disparity have simply aggravated the problem by changing the process from plea bargaining to charge bargaining where the prosecutor has no pre-sentence report and less relevant information. While this information does not necessarily help us find problems in our own system, it, at least, makes us grateful that we did not pursue determinate sentencing schemes.

Our subcommittee is currently of the opinion that the collection of subjective information looks more fruitful than an attempt to gather objective data on this issue. We intend to do so.

12. More research and information about effective ways to punish hate crimes are needed including “models of intervention” such as mediation, education and training, more intensive probationary provisions, and offender treatment programs.

SWAP is not about to try again to push hate crimes legislation, however, the Sentencing Commission might be effective in providing resources to sentencing judges who, of course, already have the jurisdiction to order defendants into appropriate education and training.

Utah State Courts
Response to Recommendations of
Task Force on Racial and Ethnic Fairness

WORKFORCE: RECRUITING/HIRING

(1) Agencies in the state of Utah should establish and maintain Equal Employment Opportunity Plans.

Implementation Status: The Courts have an Equal Employment Opportunity Plan which is updated annually. The current plan can be found at: <http://courtlink.utcourts.gov>

(4) The judiciary and the legal community as a whole should enhance their current minority recruitment efforts and work with minority communities to attract a larger pool of qualified minority applicants.

Implementation Status: This is a work-in-progress. The Courts' implementation plan will expand current recruiting efforts into nontraditional areas and enhance upward mobility opportunities for current minority staff members. This will be done by:

1. Develop an ongoing outreach program which would utilize current staff members, particularly minority staff members, to make presentations in local high schools about their roles in court operation, getting the media to run stories on some of the programs that are currently underway, etc. in an effort to educate the public about potential employment opportunities that are available in the court system. The outreach programs should specifically target Indian Nations in districts where Indian Nations are located within a reasonable distance.
2. More emphasis placed on developing alternative sources of minority candidates in rural areas.
3. Develop sources for obtaining more minority volunteers and interns who would in the future be candidates for open positions. Internally, it is necessary to develop a meaningful, basic education/training program for these interns and volunteers.
4. Continue and expand the collaboration with the Department of Workforce Services, school districts, Department of Aging, etc. and utilizing their volunteer programs to "advertise" the court system as a potential employer.
5. Offer un/paid internships to college, vocational or business school students, seeking out ethnic minorities to fill these positions. Targeting the intern pool as a potential candidate pool.
6. Develop contacts in local ethnic minority religious organizations who would distribute and/or post court employment opportunities.
7. Ensure the "Employment Opportunities in the Courts" brochure is available to current staff presenting to the community, etc.

The Human Resources Director introduced this plan at the September 2002 Trial Court Executives' Meeting. These efforts must be implemented at the individual court level.

(6) The Administrative Office of the Courts should conduct an examination of the racial and ethnic diversity of the courts workforce by judicial district to ensure progress in the goal of increasing workforce diversity. This examination should occur at least annually.

Implementation Status: This will continue to be conducted annually, through analysis of the "Workforce Composition Report" and the "Utilization Analysis Report". In addition, the Administration Subcommittee recommended development of a "Minority Retention Report" to compile statistics. The report has been developed and termination data is currently collected for inclusion in a statewide annual report.

(8) The Judicial Council, as part of the justice court certification process, should ensure that all judicial appointing authorities (city council/county government) recognize the importance of cultural diversity in the workplace and should have in place recruiting processes that result in diverse applicant pools. Further, the appointing authority, should retain data relating to the race and ethnic background of applicants for the judicial vacancy for examination by the Judicial Council to monitor compliance with this position.

Implementation Status: New Judge Orientations for the Justice Courts include Racial and Ethnic Fairness presentations. New Justice Court judges are informed of the leadership history, current efforts, and organizational plans for implementation of racial and ethnic fairness efforts. The Governor was given a Task Force Final Report and opportunity to discuss the outcome with the Task Force Director and a member of the Operations Committee in 2000. The Courts' Ad Hoc Implementation Committee sends a strong letter to Judicial Nominating Committees submitting names for judicial vacancies. The letter emphasizes specific Task Force recommendations and their stance on diversifying the judiciary. The Administrative Office of the Courts added a point to the judicial vacancy application where the applicant can self-report their race. Orientation for new Judicial Nominating Committees will also begin to include highlights of the racial and ethnic fairness efforts and the importance of diversifying the judiciary. The Advisory Council to the Commission has a subcommittee to address the diversification of the Judicial Nominating Committee and collaborates with other community and activist groups, namely the Governor's Hispanic Advisory Council and the Utah Minority Bar Association, to advocate for judiciary diversification.

(9) Judges should consider the importance of diversity on the bar and bench in the hiring of law clerks.

Implementation Status: This is currently done informally. This recommendation has not been implemented formally.

TRAINING

(4) The court and counsel should, as a matter of policy, warn defendants, who agree to deportation as a condition of the sentence, of the harsh consequences under federal law for violating the condition not to return to the United States without permission from the government.

Implementation Status: Member of the Courts serves on the Utah State Bar's subcommittee to specifically look at this recommendation. A work in progress.

(5a) The Judicial Council should ensure that all judges (at all levels of court) and relevant court personnel receive regular training on the appropriate use of interpreters in the courtroom.

Implementation Status: The Courts' Ad Hoc Implementation Committee sent a strong letter to a Judicial Conference Planning Committee. The letter emphasized specific Task Force recommendations and their stance on ensuring proper information on interpretation services in the courtroom at Judicial (education) Conferences. This is the recommendation prioritized by the Training Subcommittee, whose plan of action includes:

- At the first meeting of 2002, the Judicial Conference Planning Committee agreed that a plenary session on working with interpreters be provided.
- Work with the Interpretation Committee to insure there is no duplication of efforts and to consolidate resources, to ensure the training is relevant to Utah court judges.

(5b) Judges should receive training on the level of reliability of psychological evaluation results in cases where the mental health practitioner does not speak the same language as the client/defendant, does not have an understanding of the defendant's culture, and in cases where an interpreter is used for the evaluation.

Implementation Status: This topic was addressed at the District Court Judicial Conference in May 2002. Due to budgetary constraints for the costs of additional training, Adult Probation and Parole announced that these are currently unsound and culturally incompetent. Therefore, bilingual psychological exams are being discontinued until they can be conducted correctly.

(5c) Mandatory cultural diversity training should address the specific needs of court employees, including judges. 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. 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.

Implementation Status: The legislature appropriated one-time funds for FY2002 to provide cultural competency training to all court employees. The trainings consist of two four-hour training sessions spaced one month apart, each facilitated by two experienced trainers, and held between November 2001 and June 2002. The curriculum is adapted from the Utah Multi Agency Cultural Competency Curriculum (UMACCC). The State Court Administrator has mandated that all court employees attend, including court interpreters. Justice Court employees were strongly encouraged, although not required, to attend. Training in the curriculum was provided to the District, Juvenile and Justice Court Judges at their spring conference. The most recent sessions were adapted from the UMACCC. The Utah Judicial Institute is compiling a formal report of the cultural competency training project. In addition, the Ad Hoc Committee has recommended to the Standing Committee for Judicial Education that cultural competency training be required for all new court employees, and there be follow up training options for current employees.

(5d) Judges should receive training on the rights of individuals to serve on juries and defendants to have a jury that reflects a cross section of the community.

Implementation Status: This topic was brought to staff for the Education Planning Committee. It will be addressed by this committee for inclusion in future District Conferences.

(6) Individual judges, at all levels of the courts, and members of the Board of Pardons and Parole should conduct a heightened examination of the sentences they impose to determine whether or not they have, perhaps unintentionally, allowed racism to cloud their judgments.

Implementation Status: This study has not been initiated yet. Researchers at the Social Research Institute have considered it briefly, although questions about methodology arose. Other research studies have taken current precedence.

INTERPRETING

(2) The public and Bar should be provided with easily retrievable information on individual rights to an interpreter and the availability of interpreter services. Strategies should include:

- ***Bar and Court web sites, and***
- ***Audiovisual and pamphlet materials available in multiple languages.***

Implementation Status: The Courts' website <http://courtlink.utcourts.gov/interp/> has extensive information about the profession of court interpreting, including certification information. Information has recently been added informing the public of their entitlement to a court interpreter in qualifying cases. Language regarding the right to an interpreter is also being added to Notices issued by the court. Occasionally there are written articles in ethnic newspapers and other newsletters about interpretation services. Translations of some audiovisual and written materials have occurred and some is in progress.

(3) The court interpreter certification program should be strengthened and expanded to ensure quality interpretation for all those appearing in court proceedings. Strategies should include:

- *employing a full time administrator, including local managers, as appropriate,*
- *employing full time interpreters as court employees, where appropriate,*
- *establishing guidelines for contract interpreter selection,*
- *monitoring needs requirements for additional language interpreters and certification testing,*
- *establishing and maintaining a code of professional responsibility, discipline, and grievance procedure, and*
- *conducting a concerted effort to recruit skilled interpreters so that there is a high probability exists that a certified interpreter will always be used.*

Implementation Status: Due to financial constraints, the position of a full-time statewide administrator has not been approved. However, a full-time Interpreter Coordinator has been hired to manage the services in the Third Judicial District, which is the largest district. Interpreter selection guidelines have been completed, as well as the professional code, discipline, and grievance procedure. The certification process is also a means of quality control. The primary reason for not certifying languages other than Spanish at this time is the unavailability of funds to offer the necessary trainings to meet certification requirements. There are currently no full-time interpreter positions. Although this has been studied, it will likely be proposed again as the most effective and economical way to provide interpreter services in large courts.

(4) Interpreters should be proficiently bilingual and culturally competent to provide the proper language and dialect to an individual before the court. More minorities should be recruited to serve as interpreters.

Implementation Status: The courts joined the National Center for State Courts' Interpreter Consortium, adopted a Code of Professional Responsibility (ethics), requires that courts use certified interpreters unless not reasonably available (in which case an "approved" interpreter must be used), implemented a certification program for Spanish language, and provides "generic" training for interpreters of all other languages. The interpreters are required to attend the court system-wide cultural competency trainings, and a structured continuing education policy has just been adopted. Recruitment has been informal to date and there are plans in action to make it more formalized and systematic.

(5) Non-interpreter court employees who have bilingual skills and use those skills as a part of their job duties should be acknowledged through increasing starting salary levels and/or appropriate pay increases.

Implementation Status: This has been completed and initiated into policy. "Second Language Stipends" are awarded to a limited number of qualifying employees within each judicial district.

(6) The Judicial Council should assign the responsibility to the Court Interpreter Advisory Panel of conducting a feasibility study to evaluate the need, viability, and placement of a centralized authority for overseeing the administration of certification and delivery of interpreter services for all criminal and juvenile justice agencies.

Implementation Status: Implementation has been delayed and the Court Interpreter Advisory Panel has responded in a memo dated March 20, 2000. To summarize, a centralized oversight authority is not workable nor practical due to the vast differences in interpreter services and policies across the system. The memo continues that budgetary issues, prioritization, and quality control would be compromised.

(7) Judges must assume responsibility in determining that the race, ethnicity or primary language of defendants, witnesses, victims, and counsel do not affect the ability of individual jurors to be impartial and should instruct court participants on the role of the interpreter (including the administration of the oath in open court).

Implementation Status: For several years, these practices have been taught in the New Judge Orientation. They will continue to be part of the curriculum. General training for judges has been placed on the agenda of the Annual Judicial Conference, and these topics will be part of that training.

COMMUNITY RESOURCES/ OUTREACH

(2b) The Judicial Council's Public Outreach Committee should take the lead in helping communities to understand the court process by considering implementation of the following: civics classes for minority communities, tours of the courts for schools and youth clubs, Meet the Judges nights, and having a Court - Community Outreach effort to link the courts and the public.

Implementation Status: The Public Outreach Committee has made a number of efforts to implement this recommendation, building on earlier outreach activities. In regard to the specific activities noted in the list above, each of them are being currently implemented except for the civics classes for minority communities. This suggestion will be forwarded to the Outreach Committee for consideration. One of the ideas under consideration for the Outreach Committee is to more systematically gather information on the various outreach activities conducted in the districts and statewide, similar to the survey that was conducted earlier as a part of the session at the 2001 Annual Judicial Conference. If one of the roles of the Outreach Committee is to collect information on these community outreach activities, then this data collection would be important to maintain. A number of Community-Court Forums have been held:

“West High School Advocacy Class”	May 21, 2002
“A Forum on How to Access Available Services”	May 10, 2002
“A Forum on How to Access Available Services”	May 8, 2002
“A Forum on How to Access Available Services”	May 1, 2002
“Get to Know Your Juvenile Court Justice System”	April 30, 2002
“Know Your Rights in the Juvenile Court System”	August 28, 2001
“New Immigration Law”	February 22, 2001

At the January 2002 meeting of the Outreach Committee, a visual template to created to organize the wide variety of outreach efforts that are currently in place (attached). These include such activities as:

- School-Based Programs
- Pro Se Services and Programs
- Community-Court Forums
- Community Education
- Volunteer Programs
- Speakers' Bureau
- Media Services and Programs
- Legislative Collaboration
- District Programs
- Web Page

Based on a request from the Implementation Committee, the Standing Committee on Judicial Branch Education voted to allow education hours credit for public outreach efforts by judges and court staff. This measure helps to encourage judges and other court personnel to become involved in public outreach efforts in their communities.

Rule changes have been initiated by the Outreach Committee that should have long-range ramifications in encouraging judges to participate in community outreach activities. First, a rule change to the Code of Judicial Administration was submitted to the Judicial Council and approved, and has been published. Rule 3-114 reads:

*“Intent: To foster a greater role for judges in service to the community.
Applicability: Consistent with the Code of Judicial Conduct and to increase public understanding and involvement with the administration of justice, the Judiciary is encouraged to: identify and address issues of access to justice within the court system including any physical language or economic barriers that impede the fair administration of justice; educate civic, educational, business, charitable and other groups about the court system and judicial process; take an active part in the community where participation of the judiciary will serve to increase public understanding and promote public confidence in the integrity of the court system.”*

A proposed change to the Code of Judicial Conduct has also been developed by the Committee and has been referred to the Ethics Advisory Committee. If approved, this will be forwarded to the Supreme Court for comment.

Trial Court Executive Implementation: A group of Trial Court Executives has been established to track efforts at the local level. They will report periodically to the Trial Court Executives at their regular meetings.

Trial Court Executives have forwarded a list of their current outreach activities to the Implementation Committee. In terms of comparing their efforts to the recommendations, these activities do fulfill this recommendation (2b) and the following one (8). In addition, it is believed that each local district offers court tours as a part of their regular outreach activities. There are many efforts focused on assisting the pro se litigant. In an effort to combine this information with the activities of the Outreach Committee, local efforts are listed below:

- Foster a collaborative relationship with Hispanic Center and Juvenile Courts (1st District)
- Legal Aid offers free legal advice twice monthly (1st District)
- Davis County Bar offers free legal advice weekly for economically disadvantaged individuals (2nd District)
- Davis County has a case management program for divorce cases, which reduces return visits to court (2nd District)
- Customer service survey available in Spanish (2nd District)
- Outreach efforts include Law-Related Education Project, Kids and the Law Program Law Day, Speaker's Bureau, and Community-Court Forums (3rd District)
- Silver Summit Courthouse collaboration with Park City/Summit County Arts Council provided multi cultural artwork for the building (3rd District)
- Community-Court Forum with NAACP (3rd Juvenile)
- Customer service suggestion box (4th Juvenile)
- Participated in Task Force Public Hearings (5th District)
- Customer service survey (5th District)
- Legal Aid offers free legal advice weekly (6th District)
- Continuous outreach to tribes (7th District)

(3) All elements of the criminal and juvenile justice system should collaborate to provide the public and schools with information to better understand our law enforcement and justice system in order to enhance public trust and confidence. This should include:

- ***law enforcement complaint process,***
- ***judicial complaint process,***
- ***other employee complaint processes,***
- ***annual report on minority bar, and***
- ***web site information on minority bar and judges, to include tribal courts.***

Implementation Status: The committee feels that law enforcement and the Judicial Conduct Commission should provide their information and conduct outreach on their own programs because they are the experts on the services they offer. Jurisdiction is an issue.

Law Enforcement complaint process: Generally, law enforcement agencies provide this information to complainants when contacted. Unsure if each state and local agency has a specific complaint process. At this time, no current plan to ascertain whether each law enforcement agency has a complaint process. If this arises as an issue within the context of a Community-Court Forum, the appropriate resources and/or staff can be included in the Forum.

Judicial complaint process: People with complaints can contact the Judicial Conduct Commission for information on the complaint process, and they will be mailed an informational brochure. This information is also located on the Utah State Bar's web page.

Other Court Employee complaint process: The 1-800 information line is available for the public to call regarding complaints or information. Posters on the 1-800 line are visibly posted in every court building. These posters are also displayed at all Community-Court Forums. Statewide, there are no specific policies in Human Resources related to complaints against court employees. It is possible that local districts have their own specific policies on this issue.

Web site information on Minority Bar and Judges, to include Tribal Courts: There has been an effort to include information on tribal judges on the court's web page. The webpage link has been established; however, the actual information (content) had not been forthcoming. Members of the judiciary and Administrative Office of the Courts were involved in this effort, which was approximately three years ago. They do not anticipate that they will receive any further information from the tribal courts relative to the content for the web page. At this point, we believe the minority bar has not included any specific information on the Bar's web page. Follow-up on this effort can also be made as part of the implementation plan.

(8) Criminal and juvenile justice entities should establish and maintain ongoing partnerships with community institutions from local government, to civic groups, to religious organizations, to local leaders in order to best meet the community's needs.

Implementation Status: The implementation of this recommendation is partially a result of the community outreach activities, as described above. Community-court forums are especially critical in establishing ongoing partnerships with community groups, and a wide variety of community groups are being sought for partnerships in forums. Community-Court Forums have been sponsored with the following organizations:

- Multi-Cultural Legal Center
- Salt Lake Area Community Action Program
- West High School
- Salt Lake Peer Court
- Salt Lake City NAACP
- Centro de la Familia (in process)

Likewise, the many activities conducted locally by the TCEs are also critical in building and maintaining these partnerships.

ADMINISTRATION

(1) Utahns should be provided a safe and central location to learn more about hate groups and hate motivated violence, to receive information and education on recognizing, reporting, investigating, prosecuting, and punishing of hate crimes, and to report complaints about the handling of their cases.

Implementation Status: The recommended approaches for implementing are:

- A. Use the Courts's web page as a "safe and central" location for information about hate groups and hate motivated violence.
- B. Ask Utah Judicial Institute to add this topic to its Community-Court Forums
- C. Partner with the Multicultural Legal Center to develop content for web page and forum.
- D. Investigate what other organizations would be willing to put hate crimes information on their web pages.

(16) The Judicial Council should request annual reports from the Administrative Office of the Courts and the Utah State Bar outlining their progress in implementation of court workforce recommendations.

Implementation Status: This is the top priority for the Administration Subcommittee. The recommended reporting tools for the Administrative Office of the Courts are maintained and reported by the Human Resources department: the Workforce Composition Report (completed 02/02); the revised format of the Utilization Analysis Report (completed 02/02); the Judicial Applicants Report (completed 06/02); a listing of court positions included in each EEO category on the Workforce Composition and Utilization Analysis reports (completed 02/02); minority retention in court workforce report (Human Resources is presently collecting this data manually). The recommended reporting tools for the Utah State Bar are the Bar Membership by Race and Status report and a narrative report detailing specific implementation efforts undertaken as to each Task Force recommendation directed to the Bar. The Administration Subcommittee recommends reports to be submitted annually to the Judicial Council by the Administrative Office of the Courts (first report is suggested to be due September 2002) and the State Bar submit reports to the Supreme Court (first report is suggested to be due December 2002).

(17) Court ordered psychological evaluations (i.e., those completed by Pre-Trial Services, Department of Human Services competency evaluations, in conjunction with Adult Probation and Parole pre-sentence investigations, the mental health component of diagnostic evaluations, Adult Compliance and Education Center, community based treatment program mental health evaluations) should be conducted by skilled practitioners. Practitioners should strive for linguistic and cultural similarity with their clients. At a minimum, practitioners should demonstrate a basic understanding of their client's cultural background in order to account for the significant influences of race and ethnicity upon the accuracy of the evaluations.

Implementation Status: This recommendation has not been implemented. The Courts' Ad Hoc Implementation Committee has prioritized Administration recommendation #16 for immediate implementation before the other recommendations in this area. We suggest that Rule 4-903 of the Code of Judicial Administration related to uniform custody evaluations be amended to include a requirement that practitioners demonstrate understanding of clients' cultural background and strive for linguistic and cultural similarity with client. It is further recommended to add a question to the court generated Request for Proposal (RFP) that addresses the cultural

competency of the contractor. For instance, “How does your agency address cultural competency?”

(20) Advocate positions should be created by the Utah State Courts as a means of helping individuals and families through the court process. The availability of an advocate who is knowledgeable about the system, has a bi/multi-lingual capability, and has demonstrated cross-cultural skills would create a perception of a friendlier and more caring system.

Implementation Status: This recommendation has not been fully implemented. We are working towards implementation by offering Second Language Stipends to court employees with second language skills and also staffing a Bilingual Information Desk. The courts may consider renaming “advocate” position to “resource” (or similar) to avoid conflicts of interest, and develop a network of community volunteers in each judicial district to fill these positions. Recruitment and training could be patterned after that for Court Appointed Special Advocate volunteers. The Courts’ Ad Hoc Implementation Committee has prioritized Administration recommendation #16 for immediate implementation before the other recommendations in this area. Additionally, the budget cuts preclude full implementation of this recommendation at present.

DATA

(7) Track electronically racial and ethnic data on pre-trial release decisions, including Consent Decree Release (CDR), release to Pre-Trial Services (PTS), and release on own recognizance (OR).

Implementation Status: This recommendation has not been implemented yet.

(8) The Administrative Office of the Courts should keep statistics regarding the race and ethnic background of judicial applicants (for appellate, juvenile, and district court positions) throughout the application process. The process for collecting these data should allow applicants to self-identify their race/ethnicity. The data should be used for statistical purposes only. Therefore, data should be collected with the application but separated prior to the review process.

Implementation Status: The judicial application has been revised to include racial and ethnic self-declarations from applicants.

(9) The Administrative Office of the Courts’ court employee application form should include some type of form that requests Equal Employment Opportunity data as an optional part of the application. The collection of this data should be used for statistical purposes only. Therefore, the form should not be attached to the application so as to ensure that the information will not

be forwarded to the interview process. The data should be self-reported. Two possibilities include use of a self-addressed postcard or foldable mailer.

Implementation Status: This self-reported information is collected on an unattached form with the application which is separated from the application immediately upon receipt and prior to any processing. The interview/selection committees never receive this information.

(10) Criminal and juvenile justice agencies should conduct annual reviews as well as confidential exit interviews for employees that include a question regarding racial and ethnic fairness in the employee's work environment.

Implementation Status: There are standard forms for both annual reviews and exit interviews. We have begun the process of updating these forms to include a racial and ethnic fairness component(s). The 2002 annual performance review form includes this. In addition, the Courts have developed a report to collect termination information on an on-going basis for all employees leaving the system. Information tracked will include name, gender, ethnicity/race, reason for termination, etc.

(11) Justice courts across the state should maintain data on sentencing decisions by race and ethnicity. Data should be kept in a consistent manner for the purposes of evaluation.

Implementation Status: This has not been implemented on a statewide basis. The primary reason is due to technological limitations in many Justice Courts.

(12) The racial and ethnic composition of the qualified jury list and of jury service should be tracked regularly to determine levels of participation by minorities and the representativeness of Utah's jury pool database.

Implementation Status: see footnote1, following the Research section.

(14) The Judicial Council should require justice courts to provide statistical information to the Administrative Office of the Courts (AOC) on workforce issues that the AOC tracks for other levels of the court, including racial/ethnic data on judicial applicant pools.

Implementation Status: At this time, this information is not collected. The primary reason is because the justice court employees are appointed by their local governments.

(15) The Judicial Performance Evaluation Committee should add the following item to the judicial performance evaluation form to inquire specifically about racial and ethnic bias. Respondents should be asked to rate the justice or judge on the following issue: Engages in any language or behaviors that result in racial, ethnic, or gender bias or the appearance of racial, ethnic, or gender bias?

Implementation Status: This specific inquiry is not on the evaluation form. It is a more general question: "Behavior is free from bias and favoritism." The respondent ranks the judge on a 5-

point scale. There used to be additional questions focusing on specific areas of bias (race, gender, etc). However when the results were analyzed after several years, they were no different from the results of the general question. At the time, the Committee was looking for ways to shorten the survey and reduce the demands on the lawyers' time, so several specific questions were eliminated.

RESEARCH

(1) The criminal and juvenile justice system should implement management information systems that produce information that captures “what works” predicated on guiding principles that provide for a pro-active problem solving approach in dealing with the offender and the offender’s family.

Implementation Status: This study has not been initiated yet. Researchers at the Social Research Institute have considered it briefly, although questions about methodology arose. Other research studies have taken current precedence.

(13) The Judicial Council should determine methods for increasing the racial and ethnic representativeness of juries.

Implementation Status: see footnote1, following the Research section.

(14) The Administrative Office of the Courts should sponsor significant research on the source lists for the jury master list, the jury qualification process, and the use of peremptory challenges for racial and ethnic bias. Research should also study whether and to what extent jurors feel they have been the object of racial or ethnic bias in their capacity as jurors.

Implementation Status: see footnote1, following the Research section.

(15) The Administrative Office of the Courts should sponsor research to determine whether the absence of minorities on juries results in an inability to receive a fair trial. The study should compare conviction rates of minority defendants by juries with minority representation.

Implementation Status: see footnote1, following the Research section.

Footnote 1: Many of the Courts-specific recommendations pertained to racial and ethnic representation on juries and related issues. For this reason, the Data/Research Subcommittee has prioritized Jury Issues and submitted the following summaries:

Jury Pool Lists

Efforts to ensure that the Utah jury pool is more representative of the general Utah population are underway independent of the Implementation committee. Plans have been announced to acquire source juror names from sources other than voter registration records and the Utah Drivers'

License Division. It is anticipated by the project leader that these efforts will go into place in the next six months. While this jury pool improvement project is not targeted at ensuring juror racial and ethnic representation specifically, it is assumed that any work that improves the representative nature of the jury pool will result in greater representation of racial and ethnic minorities.

Juror Summons Process

A separate area of concern regarding racial and ethnic representation on juries involves how court procedures may inadvertently skew the number of racial and ethnic minorities who actually serve on juries. A Second Judicial District jury clerk raised concern that a larger than expected number of Hispanic surnames appeared on the second notice call for jurors. By way of explanation, jurors are summonsed to jury duty with a juror questionnaire. If the juror does not respond to the initial summons, a second notice is sent. If the second notice is not responded to, an Order to Show Cause is typically issued. This is where local court/sheriff's office practice varies somewhat. The First Judicial District with the cooperation of their sheriffs' offices gets a final resolution to the jury summons through the Order to Show Cause. The Second Judicial District (Ogden) issues an Order to Show Cause as well, but often the Orders are not served in a timely fashion. In effect, a jury summons in Second District (Ogden) is less likely to be resolved by appearance or dismissal than a jury summons in the First District. This raises some interesting questions.

The results of the data query to see if there is a racial disparity among those who do not respond to a jury summons was sparked from this hypothesis that there is an overabundance of Latinos with Ogden zip codes who are not responding to jury summons. An analysis comparing the Jury Pool responses of individuals with Hispanic surnames and the overall response rates was conducted to find out if this disparity exists, why, and how to improve the response rate. The results identified a considerable increase of incorrect addresses for those with Hispanic surnames. The Jury Committee is determining the effectiveness of the National Change of Address service in Denver and will decide if this is an efficient solution for the disparate numbers. This project currently has high priority status in the Information Technology department.

Increasing Native American Representation on Juries

Efforts continue to increase Native American representation on juries in San Juan County. The Navajo Nation is now submitting names for jury lists, although continuation of this is dependent upon funding issues.

Collecting Racial Data During Juvenile Intake

Juvenile court has increased its racial data collection during juvenile intake from less than 50% in 2000 to reportedly over 90% in 2002.

**Division of Youth Corrections
Response to Recommendations of
Task Force on Racial and Ethnic Fairness**

WORKFORCE: RECRUITMENT/HIRING

1. Agencies in the state of Utah should establish and maintain Equal Employment Opportunity Plans.

The Division, as an agency of the State of Utah maintains an Equal Employment Opportunity Plan. The State of Utah, through the Division of Human Resource Management has a plan.

4. The judiciary and the legal community as a whole should enhance their current minority recruitment efforts and work with minority communities to attract a larger pool of qualified minority applicants.

The Division has an excellent record of recruitment in minority communities, and, does have a representative pool of minority employees. The Division takes pride in the fact that the employee pool, including administration and management is reflective of the larger community, (see attachment).

11. The Juvenile Courts and the Division of Youth Corrections, including their contract service providers, should establish policies and practices to increase their ability to recruit minority applicants.

The Division will work towards rating and reviews that credit the efforts of its contract agencies.

COMMUNITY RESOURCES/OUTREACH

3. All elements of the criminal and juvenile justice system should collaborate to provide the public and schools with information to better understand our law enforcement and justice system in order to enhance public trust and confidence. This should include:

- *law enforcement complaint process,*
- *judicial complaint process,*
- *other employee complaint process,*
- *annual report on minority bar, and*
- *web site information on minority bar and judges, to include tribal courts.*

The Division has complaint processes for youth in custody, constituents, and employees:

- 1) Youth-are given program and agency rules, (including limits on rules). If youth

feel they are mistreated there is a formalized grievance system leading up to an administrative hearing before an independent hearing officer.

- 2) Any citizen may file a complaint with the Division. Complaints may be resolved at the local, or state level.
- 3) Employees may issue complaints pursuant to Human Resources policy. The complaint process may go through the State system, through UALD, or in protected class matters, may be filed directly with the Federal Courts.

The Division enhances public trust and confidence with an active speakers bureau. Throughout the course of a year, Division employees speak to schools, civic groups, media, or other community groups.

8. Criminal and juvenile justice entities should establish and maintain ongoing partnerships with community institutions from local government, to civic groups, to religious organizations, to local leaders in order to best meet the community's needs.

The Division maintains ongoing partnerships with community institutions by various means including: Staff who are actively involved with local and grass roots level community groups. In addition, Division staff and youth are involved in many and numerous community service projects.

ADMINISTRATION

1. Utahns should be provided a safe and central location to learn more about hate groups and hate motivated violence, to receive information and education on recognizing, reporting, investigating, prosecuting, and punishing of crimes, and to report complaints about handling of their cases.

No response.

18. Juvenile justice system services should be provided to the entire family to insure that family issues that may contribute to delinquent behavior are addressed as well as those of the minor.

The Division embraces this philosophy. During the last fiscal year alone over 69,000 hours of family therapy were delivered and paid for on a contract basis.

22. 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.

The Division utilizes culturally competent contractors as a means of delivering the aforementioned services. Currently the Division has several contracts for service with providers who deliver culturally competent services. However, the Division also acknowledges some weaknesses in this system, and will attempt to recruit a larger pool at the time of the next request for proposals.

23. *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.*

The Division supports this recommendation while acknowledging weakness in some of the contract treatment programs, and will attempt to bolster this service area in contracting. At the same time, the Division again, notes that its internal programs are designed and run by a diverse staff. Currently, the Division has one mentor program, operated by Colors of Success (Boys Club).

DATA

1. *The race and ethnicity of crime victims should be maintained electronically in databases so that further studies of minority crime victims are possible in the future.*

Crime victim data is the purview of the Juvenile Court through the Juvenile Information System.

10. *Criminal and juvenile justice agencies should conduct annual reviews as well as confidential exit interviews for employees that include a question regarding racial and ethnic fairness in the employee's work environment.*

The Division has experimented with employee exit interviews, but as yet, has not adopted a formal process for assessing fairness in the work environment.

17. *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 custody issues.*

Pending the completion of the new data system, the Division will make efforts to collect this data.

RESEARCH

1. The criminal and juvenile justice system should implement management information systems that produce information that captures “what works” predicated on guiding principles that provide for a pro-active problem solving approach in dealing with the offender and the offender’s family.

The Division is just launching several new initiatives aimed at improving the justice system. Included in the new efforts are a) risk assessment, b) graduated sanctions, c) a balanced approach methodology, and d) program evaluation. These initiatives will allow for more precise measurement into “what works”.

17. The Juvenile Courts, the Department of Child and Family Services, and the Division of Youth Corrections should jointly examine the relationship between custody and socio-economic status. Specifically, the research should attempt to establish if a relationship exists between income level and custody decisions.

The Division would work with the Courts and DCFS in this proposed project. This, would require leadership from the Juvenile Court as all DYC and DCFS cases turn on Court decisions. The Court also sees many more youth than are in custody populations.

18. The Juvenile Courts and the Division of Youth Corrections should conduct qualitative reviews involving youth who successfully exit the system.

The Division agrees, and will attempt to get this into its research agenda this year.

Race, Gender, and Job Type

Division of Youth Corrections Staff

Job Type

Ethnicity	Administrative			Service Delivery			Support		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Caucasian	74 57.3%	34 26.4%	108 83.7%	300 46.2%	212 32.6%	512 78.8%	20 15.6%	95 74.2%	115 89.8%
Other	18 14.0%	3 2.3%	21 16.3%	103 15.8%	35 5.4%	138 21.2%	4 3.2%	9 7.0%	13 10.2%
Total	92 71.3%	37 28.7%	129 100%	403 62.0%	247 38.0%	650 100%	24 18.8%	104 81.2%	128 100%

Total Division Staff

Ethnicity	Male	Female	Total
Caucasian	394 43.4%	341 37.6%	735 81.0%
Other	125 13.8%	47 5.2%	172 19.0%
Total	519 57.2%	388 42.8%	907 100%

**Utah Department of Corrections
Response to Recommendations of
Task Force on Racial and Ethnic Fairness**

WORKFORCE: RECRUITING/HIRING

(1) Agencies in the state of Utah should establish and maintain Equal Employment Opportunity plans.

Implementation status: **COMPLETED AND INITIATED INTO POLICY**

- Corrections has had an EEO plan in effect since 1988.
- The plan is updated and reviewed every two years and submitted to the Office of Civil Rights for approval.
- Our most recent plan was submitted and approved in June 2002.
- A committee of representatives from each division has been established to implement the plan.

(4) The judiciary and the legal community as a whole should enhance their current minority recruitment efforts and work with minority communities to attract a larger pool of qualified minority applicants.

Implementation status: **PROCESS ESTABLISHED**

- Corrections has a Diversity Coordinator who directs our minority recruiting program.
- Corrections is emphasizing recruiting at ethnic events and festivals to make contact with the minority community.
- Meetings have taken place with the directors of the Governor's Office of Ethnic Affairs, the NAACP, and leaders of the Latino community to solicit suggestions and support for our recruitment efforts.

(10) The workforce of Adult Probation and Parole and the Department of Corrections should establish policies and practices to increase their ability to recruit minority applicants. Hiring practices should be evaluated for their effect on minority applicants. Corrections should seek minority employees actively as new hires or on a contract basis, such as for pre-sentence investigators.

Implementation status: **A WORK IN PROCESS**

- During the last year, Corrections Human Resources Bureau reviewed the correctional officer testing and hiring process and its impact on minority applicants.
- Improvements have been made to simplify the application and qualification process.
- A problem with a higher rejection of ethnic minority than white applicants has been identified.

- Under the direction of our Human Resources Bureau, a task force will be formed to review the process and see what can be done to improve the approval rate.

TRAINING

(7) Pre-sentence investigators (PSI) should receive training on the importance of adhering to sentencing guidelines and their affirmative duty to justify departures to specificity.

Implementation status: **PROCESS ESTABLISHED**

- All PSI writers receive initial training on the sentencing guidelines and documentation required for deviation from the guideline.
- Documentation is required whenever there is a deviation.
- A supervisor reviews all recommendations, and questions arising from deviations are addressed.
- Corrections will work with the Sentencing Commission to develop yearly guideline training.

(8) Training on the nature and impact of racial and ethnic bias within the system should be mandatory for the Department of Corrections and Board of Pardons and Parole employees, including pre-sentence investigators (staff and contract). Mandatory training should include communication skills, and the minority defendant. This training should assist employees in understanding different cultures.

Implementation status: **PROCESS ESTABLISHED**

- Pre-Service Academy provides 8 hours of training in:
 1. Introduction to Cultural Competency
 2. Cross-Cultural Communications Skills
 3. Cultural Differences and Historical Perspectives
 4. Prejudice Reduction, Labels, Stereotypes
- This training uses the Utah Multi-Cultural Competency Curriculum for Pre-Service Training adopted by POST and involved 192 participants in seven sessions during the past year.
- This curriculum is also being used for Division of Institutional Operations (DIO) and Utah Correctional Industries (UCI) staff in their training meetings and will involve Adult Probation & Parole (AP&P) during the coming year.
- Two hours of Cultural Competency is offered every year in In-Service Training.
- New civilian staff receive two hours of cultural competency training.
- 1st Line Supervisors receive three hours of cultural competency training.

INTERPRETING

No specific directives were given to Corrections.

Implementation status: **COMPLETED**

- Ethnic Minority Resource Officers at the Draper and Gunnison facilities handle interpreting at their Board of Pardons hearings, Offender Management Reviews and any other situations as needed.
- A directory has been compiled of Corrections staff personnel who speak languages other than English so they can be called upon to interpret as needed.
- Correctional officers receive five hours of Spanish language training in their Pre-Service Academy to give them some fundamental skills and phrases to use in their dealings with Spanish speaking inmates.

COMMUNITY RESOURCES/OUTREACH

(3) All elements of the criminal and juvenile justice system should collaborate to provide the public and schools with information to better understand our law enforcement and justice system in order to enhance public trust and confidence. This should include:

- *Law enforcement complaint process,*
- *Judicial complaint process,*
- *Other employee complaint process*
- *Annual report on minority bar, and*
- *Website information on minority bar and judges, to include tribal courts.*

Implementation status: **PROCESS ESTABLISHED**

- DOC is a member of the Cultural Competency Consortium composed of state agencies and private companies.
- DIO has a public awareness program in which schools and community groups are invited to our Draper site for an educational program.
- An inmate panel of white and minority offenders presents the program.

(8) Criminal and juvenile justice entities should establish and maintain ongoing partnerships with community institutions to best meet the community needs.

Implementation status: **A WORK IN PROCESS**

- Focus group meetings attended by representatives from the ACLU, Disability Legal Center, Prison Information Network, and the Citizens for Penal Reform have been held monthly since 1998.
- Our Draper facility has partnered with faith based organizations to provide volunteers to assist inmates in their educational and religious goals.

COMPLAINT PROCESSES

No specific directives were given to Corrections.

Implementation status: **PROCESS IN PLACE**

- Our Draper and Gunnison sites have an established process to handle inmate complaints, utilizing the Ethnic Resource Officers assigned to their facilities.
- All three departments (AP&P, DIO and UCI) that deal with inmates attend the monthly focus group to receive input and complaints from those present.
- Complaints received through the mail or telephone are handled by our Director of Public Affairs and referred to the correct department for resolution.

ADMINISTRATION

(1) Utahns should be provided a safe and central location to learn more about hate groups and hate motivated violence, to receive information and education on recognizing, reporting, investigating, prosecuting, and punishing of crimes, and to report complaints about handling of their cases.

Implementation status: **NOT IMPLEMENTED**

- Department will focus on ways to implement this finding.
- Possible recommendations or focus could involve:
 1. Hate crimes within the prison populations.
 2. Use of DOC website for information collection and disbursement.
 3. Use of Corrections focus meetings to gather and disseminate the information.

(13) In order to develop race-neutral release policies, Utah’s criminal justice system should adapt objective criteria for pre-trial release.

Implementation status: **A WORK IN PROCESS**

- Corrections’ Adult Probation & Parole (AP&P) agents are used by the courts to compile and write Pre-Sentence Investigation (PSI) reports from a 3rd party perspective.
- Sentencing recommendations are made by AP&P agents to the courts based on the information they receive from these reports.
- A review will be made by AP&P to ensure that the reports are written from a race-neutral perspective.

(14) The pre-sentence report header should not include race/ethnicity of the accused victims. At no time should race/ethnicity be considered in the pre-sentence evaluation except when that information is an integral component to the pre-sentence evaluation such as police report description or in hate crimes. The data, however, should be collected and maintained separately and electronically if possible.

Implementation status: **COMPLETED**

- The header does not give information on the race or ethnicity of the defendant.

- Information on the need for an interpreter and what language is needed is included at the front of the PSI.
- The “Background and Living Situation” section includes information on where the defendant was born or grew up which might tell something about race or ethnicity.
- Data on race and ethnicity are collected and maintained electronically in the O-Track data base.

(15) Upward departure recommendations on pre-sentence investigations should, by policy, require review by a supervisor. Records shall be kept in a searchable form of all approvals for upward departures.

Implementation status: **PROCESS IN PLACE**

- All PSI recommendations are reviewed by a supervisor – upward, downward, or no departure.
- Current electronic records do allow upward departures to be identified.
- This information can be used to locate files to check for supervisor approval.
- Our current PSI writers are a mix of staff and contractors.
- Almost 35% of our PSI writers have never worked for Corrections and may not have received our cultural competency training. However, many of these individuals worked for other criminal justice agencies and received training through them.

(17) Court ordered psychological evaluations (ie. Those completed by Pre-Trial Services, Department of Human Services competency evaluations, in conjunction with Adult Probation and Parole pre-sentence investigations, the mental health component of diagnostic evaluations, Adult Compliance and Education Center, community based treatment program mental health evaluations) should be conducted by skilled practitioners. Practitioners should strive for linguistic and cultural similarity with their clients. At a minimum, practitioners should demonstrate a basic understanding of their client’s cultural background in order to account for the significant influences of race and ethnicity upon the accuracy of the evaluations.

Implementation status: **A WORK IN PROCESS**

- All evaluations are made by practitioners who carry the appropriate license from the state.
- Since most evaluations are performed by a contract provider, cultural competency training could be required.
- Measuring the practitioner’s basic understanding or each client’s background would be difficult.

DATA

(1) The race and ethnicity of crime victims should be maintained electronically in databases so that further studies of minority crime victims are possible in the future.

Implementation status: **NOT APPLICABLE**

- Corrections does not collect data on the race or ethnicity of victims.
- Our recommendation is that this be tracked through BCI and the arrest records.

(10) Criminal and juvenile justice agencies should conduct annual reviews as well as confidential exit interviews for employees that include a question regarding racial and ethnic fairness in the employee's work environment.

Implementation status: **A WORK IN PROCESS**

- We are currently reworking our exit interview process and will include questions on racial and ethnic fairness in the work place.
- We are investigating the possibility of conducting annual or bi-annual questionnaires of staff which would include questions on racial or ethnic bias encountered in the work place.

(16) The Department of Corrections should keep racial and ethnic statistics regarding the demographics of the prison, probation and parole populations, including: offense by type(s); recommendations of pre-sentencing reports; sentencing guidelines compared to sentences by courts to probation, prison; length of stay compared with sentencing guidelines; probation or parole rates; and those with illegal alien status, so that the impact of efforts toward increasing racial and ethnic fairness can be properly monitored.

Implementation status: **COMPLETED**

- Corrections offender tracking database, O-Track, includes data on the race and ethnicity of offenders.
- This allows us to give racial and ethnic profiles on:
 1. Population demographics
 2. Offense categories
 3. PSI recommendations
 4. Sentencing recommendations
 5. Length of stay compared to guidelines
 6. Probation and parole violation rates
 7. Rates of successful termination

RESEARCH

(1) The criminal and juvenile justice system should implement management information systems that produce information that captures "what works" predicated on guiding principles

that provide for a pro-active problem solving approach in dealing with the offender and the offender's family.

Implementation status: **A WORK IN PROCESS**

- Corrections continues to be involved in research and evaluation of programs.
- We are currently developing a comprehensive database on programming and program participation which will improve our ability to look at results and outcomes.
- Our new programming initiatives include greater integration of families and community organizations with emphasis on faith-based groups.

**Board of Pardons and Parole
Response to Recommendations of
Task Force on Racial and Ethnic Fairness**

WORKFORCE: RECRUITING/HIRING

(1) Agencies in the state of Utah should establish and maintain Equal Employment Opportunity Plans.

Implementation Status: The Utah State Board of Pardons and Parole (the Board) is a state agency which follows the anti-discrimination policies set forth in Department of Human Resource Management (DHRM) Administrative Rule 477-2 (see Attachment 1), which provides for fair and equal employment opportunity within all state agencies. The Board has and will continue to handle Equal Employment Opportunity issues and concerns in accordance with that rule and other applicable federal and state regulations and policies.

(4) The judiciary and the legal community as a whole should enhance their current minority recruitment efforts and work with minority communities to attract a larger pool of qualified minority applicants.

Implementation Status: The Board supports the enhancement of minority recruitment efforts and the attraction of qualified minority applicants within the legal and criminal justice fields since many Board applicants come from those fields. Over the years, Board members and staff have participated in community and educational efforts, such as job-fairs, higher education seminars, and community meetings, to discuss the role of the Board in Utah's criminal justice system and opportunities for employment at the Board. Agency personnel will continue to support efforts designed to make the criminal and juvenile justice systems more representative of the diverse populations within the state.

(10) The workforce of Adult Probation and Parole and the Utah Department of Corrections should establish policies and practices to increase their ability to recruit minority applicants. Hiring practices should be evaluated for their effect on minority applicants. Corrections should seek minority employees actively as new hires or on a contract basis, such as for pre-sentence investigations.

Implementation Status: The Board believes it has an excellent track record in hiring and recruiting minorities (see Attachment 2). The last full-time member (black male) and Pro Tempore member (black female) appointed to the Board by Governor Leavitt were minority candidates. Each appointee not only was endorsed by the Board, but the Board recruited the candidate and recommended to the candidate that he/she apply for the appointment.

The newest Hearing Officer hired by the Board is also a minority (Asian male). In fact, of the last five Hearing Officer or Administrative hires, four were either minorities or women.

TRAINING

(6) Individual judges, at all levels of the courts, and members of the Board of Pardons and Parole should conduct a heightened examination of the sentences they impose to determine whether or not they have, perhaps unintentionally, allowed racism to cloud their judgements.

Implementation Status: The results of research conducted by the Social Research Institute for the Task Force found that for the offenses with a large enough number of cases for analysis, “there does not appear to be significant differences between minorities and Whites on the length of stay in prison.” Overall the conclusion was reached that “the length of stay in prison for specific offenses appears to be similar for minorities and Whites.” The quotes are taken from the Social Research Institute’s December 1999 Summary of the Adult System Research, published on pages 146-152 of the September 2000 Task Force Report.

As a practical matter, it is the norm for most of the Board members voting on a case to be unaware of the offender’s race or ethnic background. And while an inmate’s picture or race may be located somewhere in the file, rarely does a Board member search out that information in reaching his or her decision. Likewise, the Board member or Hearing Officer conducting the hearing normally does not identify the race or ethnicity of the offender or victim(s) in his or her summary to the Board unless that information is pertinent concerning the merits of the case. In cases where the entire Board knows the race or ethnicity of the offender or victim(s), the possibility of racial or ethnic bias influencing the case is often discussed in Board deliberations as the Board moves toward reaching a decision.

(8) Training on the nature and impact of racial and ethnic bias within the system should be mandatory for Department of Corrections and Board of Pardons and Parole employees, including pre-sentence investigators (staff and contract). Mandatory training should include communication skills and the minority defendant. The training should assist employees in understanding different cultures.

Implementation Status: A Board Member, and its Administrative Coordinator and Senior Hearing Officer, attended the Utah Multi-Agency Cultural Competency Curriculum (UMACCC) Training held by the Multi-Cultural Legal Center on June 3, 2002. Arrangements have been made with an certified Cultural Competency instructor at POST to present the UMACCC training to the remaining Board members and entire staff in training sessions to be held before the end of the current fiscal year; thus, every agency employee will have completed the cultural competency training by July 1, 2003.

INTERPRETING

None directed to the Board of Pardons and Parole.

While no recommendations were directed to the Board, the Board provides the following concerning interpretation services for inmates, parolees and victims who testify at Board hearings:

Inmates, parolees and victims (or a victim representative) testifying before the Board are entitled to interpreters. DOC normally makes arrangements for interpreters for inmates and parolees through prison staff assisting with the Board's preparation for the Board hearing. Prior to the hearing, the prison notifies the Board whether an inmate or parolee needs an interpreter. If adequate interpretation cannot be provided through DOC, the Board then hires an interpreter for the inmate or parolee. For example, the Board recently paid for Arabic interpretation services for an inmate (see Attachment 3) and expended great effort to find and hire an interpreter for a Micronesian inmate who speaks Chuuk (even though the Courts and DOC utilized a family member for their interpretation services).

Interpretation services for victims are arranged through the Board's Victim Coordinator, and in most cases where the same services are needed for the inmate and victim(s), the same interpreter is used at the hearing. Currently the Board-produced Victim's Handbook does not explicitly notice the victim of his or her right to an interpreter. Such will be remedied in the next edition of the Victim's Handbook. Information on interpretation services for inmates, parolees and victims will be placed on the Board's web site <http://bop.utah.gov> when the site is next updated.

COMMUNITY RESOURCES/OUTREACH

(3) All elements of the criminal and juvenile justice system should collaborate to provide the public and schools with information to better understand our law enforcement and justice system in order to enhance public trust and confidence. This should include:

- ***law enforcement complaint process,***
- ***judicial complaint process,***
- ***other employee complaint processes,***
- ***annual report on minority bar, and***
- ***web site information on minority bar and judges, to include tribal courts.***

Implementation Status: The Board feels that law enforcement, the Judicial Conduct Commission, and the Utah State Bar should provide their information and conduct outreach on their own programs because they are the experts on the services they offer. Jurisdiction is also an issue.

Board complaint process: Complaints against the Board may be directed or forwarded to the Governor's Office, which then forwards the complaint to the Board for a response. The Board's Administrative Coordinator handles any complaints received by the Board, against the Board as an agency, or concerning an individual employee, after consultation with the employee's supervisor and/or the Chairman of the Board, for appropriate action and response.

Web site information on Board: The Board's web site will be reviewed periodically to ensure that

information concerning the Board is timely and accurate. Currently, the Board web site contains information on the Board's Mission, Vision and Values; Full-time Board members; History of the Board; Board Organization; Types of Board Hearings and Reviews; Board Administrative Rules; Board's Victim Handbook; and How to Contact the Board. A major update of the web site should be completed before December 31, 2002.

(8) Criminal and juvenile justice entities should establish and maintain ongoing partnerships with community institutions from local government, to civic groups, to religious organizations, to local leaders in order to best meet the community's needs.

Implementation Status: Board members and staff serve(d) and play(ed) key roles on several important boards, committees, task forces and groups, including this Commission, the Task Force on Racial and Ethnic Fairness in the Legal System, the Utah Sentencing Commission, the Commission on Criminal and Juvenile Justice and the Interstate Compacts Commission, as well as on task forces dealing with sentencing guidelines, mental health issues, criminal statutes, and law enforcement and correctional issues. Moreover, several agency personnel maintain membership in the Utah State Bar. Board members and staff frequently address civic, educational and religious groups. For example, a Board member recently participated in the Utah State Bar sponsored "Dialogue on Freedom" initiative, presenting at Highland High School on September 12, 2002. Over the years the Board has enjoyed a positive relationship with the Utah Department of Community and Economic Development and its Ethnic Affairs Offices, presenting to community groups and at community forums whenever invited.

The agency also sends representatives to conferences and seminars sponsored by entities such as the Association of Paroling Authorities International (APAI), American Probation and Parole Association (APPA), Utah Sheriffs Association, Utah Correctional Association, Utah State Bar and the Utah Minority Bar Association. In April 2002, the Board hosted the Eighteenth Annual APAI Training Conference held in Salt Lake City, with nearly 200 U.S. and international attendees. Three separate workshops on racial/ethnic and gender issues were part of the training curriculum.

ADMINISTRATION

(1) Utahns should be provided a safe and central location to learn more about hate groups and hate motivated violence, to receive information and education on recognizing, reporting, investigating, prosecuting, and punishing of hate crimes, and to report complaints about the handling of their cases.

Implementation Status: The Board has actively participated in the political debate on hate crimes. In reaching a decision, Board members consider the impact of offenses against individual victims as well as against targeted groups.

(13) In order to develop race-neutral release policies, Utah's criminal justice system should adopt objective criteria for pre-trial release.

Implementation Status: While the Board is not involved in the pre-trial release of offenders, the Board does consider objective criteria in its post-adjudication release decisions. The Guideline matrices (see Attachments 4a and 4b for sex offenses and non-sex offenses) use objective criteria to assess a criminal history category that equate to the recommended Guideline time frame for imprisonment based upon the classification of the offense(s). While not bound by the Guideline time frame, the Board uses it as a helpful tool in reaching a release decision. Moreover, the Board uses other objective criteria not reflected on the Guideline matrices, such as offender's programming effort, prison disciplinary history, and employment history, to name a few, in making its decisions. Many of the considerations used by the Board in reaching a decision can be found on its Decision Rationale Form (see Attachment 5).

(17) Court ordered psychological evaluations (i.e., those completed by Pre-Trial Services, Department of Human Services competency evaluations, in conjunction with Adult Probation and Parole pre-sentence investigations, the mental health component of diagnostic evaluations, Adult Compliance and Education Center, community based treatment program mental health evaluations) should be conducted by skilled practitioners. Practitioners should strive for linguistic and cultural similarity with their clients. At a minimum, practitioners should demonstrate a basic understanding of their client's cultural background in order to account for the significant influences of race and ethnicity upon the accuracy of the evaluations.

Implementation Status: The Board contracts with three independent psychologists for Sexual Psychological Evaluations commonly referred to as "Alienist Reports." Of the three providers, one is a minority female with bi-lingual and cultural competency skills. When needed for either psychosexual evaluations or Alienist Reports, skilled interpreters with language proficiency and cultural understanding specific to the offender are hired by the Board to facilitate the completion of an accurate evaluation. Need is not determined by any formal standard or criteria, rather anyone involved with the processing of the inmate will express the need for an interpreter, and that service is provided. If a case arose where an interpreter was not used to assist in the evaluation and the offender claimed this barrier impeded the process, another evaluation would be ordered.

DATA

(1) The race and ethnicity of crime victims should be maintained electronically in databases so that further studies of minority crime victims are possible in the future.

Implementation Status: The Board suggests its gathering of this data would result in inaccurately skewed data and profiles concerning victims which would be unreliable for the formation of public policy. The Board feels it would be better to collect the data at or near the beginning of the

criminal justice process rather than at the end.

(10) Criminal and juvenile justice agencies should conduct annual reviews as well as confidential exit interviews for employees that include a question regarding racial and ethnic fairness in the employee's work environment.

Implementation Status: Confidential exit interviews for Board employees regarding the employee's overall experience, including the employee's perception of fairness in the work environment, have been and will continue to be conducted by the Chairman of the Board.

RESEARCH

(1) The criminal and juvenile justice system should implement management information systems that produce information that captures "what works" predicated on guiding principles that provide for a pro-active problem solving approach in dealing with the offender and the offender's family.

Implementation Status: The Board agrees that such a capture should be made. However, given that DOC maintains the information technology system to do so, and receives the appropriate funding to carry out this recommendation, the Board believes DOC to be the appropriate agency to address and implement this concern.

Board of Pardons and Parole Attachments

R477-2-1. Rules Applicability.

These rules apply to all career and non-career state employees except those specifically exempted in Section 67-19-12.

- (1) Certificated employees of the State Board of Education are covered by these rules except for rules governing classification and compensation, found in R477-3 and R477-6.
- (2) Non-state agencies with employees protected by the career service provisions of these rules in R477-4, R477-5, R477-9 and R477-11 are exempted by contract from any provisions deemed inappropriate in their jurisdictions by the Executive Director, DHRM.
- (3) Unless employees in exempt positions have written contracts of employment for a definite period of time, they are "at will" employees. The following employees are exempt from mandatory compliance with these rules:
 - (a) Members of the Legislature and legislative employees
 - (b) Members of the judiciary and judicial employees
 - (c) Elected members of the executive branch and their direct staff who are career service-exempt employees
 - (d) Officers, faculty, and other employees of state institutions of higher education
 - (e) Any positions for which the salary is set by law
 - (f) Attorneys in the attorney general's office
 - (g) Agency heads and other persons appointed by the governor when authorized by statute
 - (h) Employees of the Department of Community and Economic Development whose positions have been designated executive/professional by the executive director of the Department of Community and Economic Development with the concurrence of the Executive Director, DHRM.
- (4) All other exempt positions are covered by provisions of these rules except rules governing career service status in R477-4, R477-5, R477-9 and R477-11.
- (5) The above positions may or may not be exempt from federal and other state regulations.

R477-2-2. Compliance Responsibility.

Agencies shall manage their own human resources in compliance with these rules. Agencies are authorized to correct any administrative errors.

- (1) The Executive Director, DHRM, may authorize exceptions to provisions of these rules when one or more of the following criteria are satisfied:
 - (a) Applying the rule prevents the achievement of legitimate government objectives;
 - (b) Applying the rule impinges on the legal rights of an employee;
- (2) Agency personnel records, practices, policies and procedures, employment and actions, shall comply with these rules and are subject to compliance audits by the DHRM.
- (3) In cases of noncompliance with the State Personnel Management Act, Title 67, Chapter 19, and these rules, the Executive Director, DHRM, may find the responsible agency official to be subject to the penalties prescribed by Section 67-19-18(1) pertaining to misfeasance, malfeasance or nonfeasance in office.

R477-2-3. Fair Employment Practice.

All state personnel actions must provide equal employment opportunity for all individuals.

- (1) Employment actions including appointment, tenure or term, condition or privilege of employment shall be based on the ability to perform the essential duties, functions, and responsibilities assigned to a particular position.

(2) Employment actions shall not be based on race, religion, national origin, color, sex, age, disability, protected activity under the anti-discrimination statutes, political affiliation, military status or affiliation or any other non-job related factor, nor shall any person be subjected to unlawful harassment by a state employee.

(3) Any employee who alleges that they have been illegally discriminated against, may submit a claim to the agency head.

(a) If the employee does not agree with the decision of the agency head, the employee may file a complaint with the Utah Anti-Discrimination and Labor Division.

(b) No state official shall impede any employee from the timely filing of a discrimination complaint in accordance with state and federal requirements.

(4) Employees are protected from employment discrimination under the following laws:

(a) The Age Discrimination in Employment Act of 1967, 29 USC 621, as implemented by 29 CFR 1625(1999). This act prohibits discrimination on the basis of age for individuals forty years and over.

(b) The Vocational Rehabilitation Act of 1973, 29 USC 701, as implemented by 34 CFR 361(1999). This act prohibits discrimination on the basis of disability status under any program or activity that receives federal financial assistance. Employers with federal contracts or subcontracts greater than \$10,000.00 must have an affirmative action plan to accommodate qualified individuals with disabilities for employment and advancement. All of an employer's operations and facilities must comply with Section 503 as long as any of the operations or facilities are included in federal contract work. Section 504 incorporates the employment provisions of Title I of the Americans With Disabilities Act of 1990.

(c) The Equal Pay Act of 1963, 29 USC 206(d), as implemented by 29 CFR 1620(1999). This act prohibits discrimination on the basis of sex.

(d) Title VII of the Civil Rights Act of 1964 as amended, 42 USC 2000e. This act prohibits discrimination on the basis of sex, race, color, national origin, religion, or disability.

(e) The Americans with Disabilities Act of 1990, 42 USC 12201. This act prohibits discrimination against qualified individuals with disabilities in recruitment, selection, benefits and all other aspects of employment.

(f) Uniformed Services Employment and Reemployment Act of 1994, 38 USC 4301 (USERRA). This act requires a state to reemploy eligible veterans who left state employment for military service and return to work within specified time periods defined by USERRA.

R477-2-4. Grievance Procedure for Discrimination

The following rules outline the grievance procedure and the specific requirements of the major laws:

(1) Age Discrimination in Employment Act of 1967.

(a) An aggrieved individual may bypass the state's grievance procedure and file directly with the Equal Employment Opportunity Commission (EEOC) or the Utah Anti-Discrimination and Labor Division (UALD).

(b) Employees shall report the alleged discriminatory act within one of the following time periods:

(i) 180 days after the occurrence to EEOC, or

(ii) 300 days after the occurrence to EEOC if the matter has been presented to UALD for proceedings under an applicable state law, or

(iii) to the EEOC 30 days after the individual receives notice of termination of any state proceedings.

(c) The Utah Anti-Discrimination and Labor Division of the Labor Commission is authorized by the Equal Employment Opportunity Commission to act on charges of employment discrimination. Employees must file charges within thirty days following an act of discrimination.

(2) Section 503 of The Rehabilitation Act of 1973, as implemented by 34 CFR 361(1999).

- (a) An aggrieved individual may bypass the state's grievance mechanism and file a complaint with the granting federal agency or the Office of Federal Contract Compliance Programs (OFCCP) within 180 days of the discriminatory event.
- (b) If dissatisfied with the outcome of the state's grievance mechanism, an individual may also file a complaint with the OFCCP within 180 days of the discriminatory event.
- (3) Section 504 of the Rehabilitation Act of 1973.
- (a) An aggrieved individual may bypass the state's grievance mechanism and file a complaint with the granting federal agency. If unsatisfied with the outcome of the state's grievance mechanism, an individual may also file a complaint with EEOC. A charge of discrimination should be filed within 180 days of the discriminatory event.
- (b) Under the 1978 amendments to the Rehabilitation Act, the procedures for enforcing Section 504 are the same as for Title VII of the Civil Rights Act of 1964.
- (4) The Equal Pay Act of 1963 - The enforcement provisions of the Fair Labor Standards Act apply for an equal pay claim. The following rules apply:
- (a) Sex discrimination in the payment of unequal wage rates is a continuous violation, and employees have a right to sue each payday that the discrimination persists.
- (b) Employees are not required to exhaust any administrative procedures prior to filing an action.
- (c) Employees alleging an equal pay claim may file directly with the Equal Employment Opportunity Commission.
- (d) Employees do not have the right to file a court action when the Equal Employment Opportunity Commission initiates a court proceeding on the employee's behalf to either enjoin an employer or to obtain recovery of an employee's unpaid wages.
- (e) Employees must file suit within two years from the last date of harm, unless the employer committed a willful violation of the law, in which case, they have three years.
- (5) Title VII of the Civil Rights Act of 1964.
- (a) An aggrieved individual may bypass the state's grievance mechanism and file directly with the EEOC.
- (b) Time lines for filing a complaint are the same as for the Age Discrimination Act in R477-2- 4.(1).
- (6) Americans with Disabilities Act (ADA) of 1990.
- (a) An aggrieved individual may bypass the state's grievance procedure and file directly with the EEOC or with the Utah Anti-Discrimination and Labor Division.
- (b) Time lines for filing a complaint are the same as for the Age Discrimination Act in R477-2- 4.(1).
- (7) Uniformed Service Employment and Re-employment Act of 1994 (USERRA).
- (a) State statutes of limitations shall not apply to any proceedings under USERRA.
- (b) An action may be initiated only by a person claiming rights or benefits, not by an employer.
- (c) The United States Department of Labor, Veterans Employment and Training Service is authorized to act on charges of employment discrimination under USERRA.
- (i) Prior to filing an action with the Veterans Employment and Training Service, an individual shall exhaust state administrative procedures.
- (ii) If unsatisfied with the outcome of the State's grievance mechanism, an individual may file an administrative complaint.
- (d) A person who receives notice from the Veterans Employment and Training Service of an unsuccessful attempt to resolve a complaint may request that the complaint be referred to the Attorney General of the United States. The U.S. Attorney General is entitled to appear on behalf of, act as attorney for, and commence action for relief in an appropriate U.S. District Court.

- (e) An individual may commence an action for relief if that person:
- (i) has chosen not to file a complaint through the Veterans Employment and Training Service;
 - (ii) has chosen not to request that the complaint be referred to the U.S. Attorney General;
 - (iii) has been refused representation by the U.S. Attorney General.

R477-2-5. Control of Personal Service Expenditures.

- (1) Statewide control of personal service expenditures shall be the shared responsibility of the employing agency, the Governor's Office of Planning and Budget, the Department of Human Resource Management and the Division of Finance.
- (2) Agency management may request changes to the Position Management Report which are justified as cost reduction or improved service measures.
 - (a) Changes in the numbers, job identification, or salary ranges of positions listed in the Position Management Report shall be approved by the Executive Director, DHRM or designee.
- (3) No person shall be placed or retained on an agency payroll unless that person occupies a position listed in an agency's approved Position Management Report.

R477-2-6. Records.

- (1) DHRM shall maintain a computerized file for each employee that contains the following, as appropriate:
 - (a) Performance ratings;
 - (b) Records of actions affecting employee salary, current classification, title and salary range, salary history, and other personal data, status or standing.
- (2) Agencies shall maintain the following records in each employee's personnel file:
 - (a) Applications for employment, Employment Eligibility Certification record, Form I-9, and other documents required by Immigration and Naturalization Service (INS) Regulations, under the Immigration Reform and Control Act of 1986, employee signed overtime agreement, personnel action records, notices of corrective or disciplinary actions, new employee orientation form, benefits notification forms, performance evaluation records, termination records.
 - (b) References to or copies of transcripts of academic, professional, or training certification or preparation.
 - (c) Copies of items recorded in the DHRM computerized file and other materials required by agency management to be placed in the personnel file. The agency personnel file shall be considered a supplement to the DHRM computerized file and shall be subject to the rules governing personnel files.
 - (d) Leave and time records.
 - (e) Copies of any documents affecting the employee's conduct, status or salary. The agency shall inform employees of any changes in their records based on conduct, status or salary no later than when changes are entered into the file.
- (3) Employees have the right to review their personnel file, upon request, in DHRM or the agency, as governed by law and as provided through agency policy.
 - (a) Employees may correct, amend, or challenge any information in the DHRM computerized or agency personnel file, through the following process:
 - (i) The employee shall request in writing that changes occur.
 - (ii) The employing agency shall be given an opportunity to respond.
 - (iii) Disputes over information that are not resolved between the employing agency and the employee, shall be decided in writing by the Executive Director, DHRM. DHRM shall maintain a record of the employee's letter; the agency's response; and the DHRM Executive Director's decision.

- (4) When a disciplinary action is rescinded or disapproved upon appeal, forms, documents and records pertaining to the case shall be removed from the personnel file.
- (a) When the record in question is on microfilm, a seal will be placed on the record and a suitable notice placed on the carton or envelope. This notice shall indicate the limits of the sealed section and the authority for the action.
- (5) Upon employee termination, DHRM and agencies shall retain computerized records for thirty years. Agency hard copy records shall be retained by the agency for a minimum of two years, then transferred to the State Record Center by State Archives Division to be retained for 65 years.
- (6) Information classified as private in both DHRM and agency personnel and payroll files shall be available only to the following people:
- (a) the employee;
- (b) users authorized by the Executive Director, DHRM, who have a legitimate "need-to-know";
- (c) individuals who have the employee's written consent.
- (7) Utah is an open records state, according to Chapter 2, Title 63, the Government Records Access and Management Act. Requests for information shall be in writing. The following information concerning current or former state employees, volunteers, independent contractors, and members of advisory boards or commissions shall be given to the public upon written request where appropriate with the exception of employees whose records are private or protected:
- (a) the employee's name;
- (b) gross compensation;
- (c) salary range;
- (d) contract fees;
- (e) the nature of employer-paid benefits;
- (f) the basis for and the amount of any compensation in addition to salary, including expense reimbursement;
- (g) job title;
- (h) performance plan;
- (i) education and training background as it relates to qualifying the individual for the position;
- (j) previous work experience as it relates to qualifying the individual for the position;
- (k) date of first and last employment in state government;
- (l) the final disposition of any appeal action by the Career Service Review Board;
- (m) the final disposition of any disciplinary action;
- (n) work location;
- (o) a work telephone number;
- (p) city and county of residence, excluding street address;
- (q) honors and awards as they relate to state government employment;
- (r) number of hours worked per pay period;
- (s) gender;
- (t) other records as approved by the State Records Committee.
- (8) When an employee transfers from one state agency to another, the former agency shall transfer the employee's original file to the new agency. The file shall contain a record of all actions that have affected the employee's status and standing.

(9) An employee may request a copy of any documentary evidence used for disciplinary purposes in any formal hearing regardless of the documents source, prior to such use. This shall not apply to documentary evidence used for rebuttal.

(10) Employee medical information obtained orally or documented in separate confidential files is considered private or controlled information. Communication must adhere to the Government Records Access and Management Act, Section 63-2-101. Employees who violate confidentiality are subject to state disciplinary procedures and may be personally liable for slander or libel.

(11) In compliance with the Government Records Access and Management Act, only information classified as "public" or "private" which can be determined to be related to and necessary for the disposition of a long term disability or unemployment insurance determination shall be approved for release on a need to know basis. The agency human resource manager or authorized manager in DHRM shall make the determination.

(12) Employees may verbally request the release of information for personal use; or authorize in writing the release of their performance records for use by an outside agent based on a need to know authorization. "Private" data shall only be released, except to the employee, after a written request has been evaluated and approved.

R477-2-7. Release of Information in a Reference Inquiry.

Reference checks or inquiries made regarding current or former public employees, volunteers, independent contractors, and members of advisory boards or commissions can be released if the information falls under a category outlined in R477-2-6(7), or if the subject of the record has signed and provided a reference release form for information authorized under Title 63, Chapter 2.

(1) The employment record is the property of Utah State Government with all rights reserved to utilize, disseminate or dispose of in accordance with the Government Records Access and Management Act.

(2) Additional information may be provided if authorized by law.

R477-2-8. Employment Eligibility Certification (Immigration Reform and Control Act - 1986).

(1) All career and non-career employees appointed on and after November 7, 1986, as a new hire, rehire, interdepartmental transfer or through reciprocity with or assimilation from another career service jurisdiction must provide verifiable documentation of their identity and eligibility for employment in the United States as required under the Immigration Reform and Control Act of 1986.

(2) Agency hiring officials are responsible for verifying the identity and employment eligibility of these employees, by completing all sections of the Employment Eligibility Certification Form I-9 in conformance with Immigration and Naturalization Service (INS) Regulations. The I-9 form shall be maintained in the agency personnel file.

R477-2-9. Disclosure by Public Officers Supervising a Relative.

It is unlawful for a public officer to appoint, directly supervise, or to make salary or performance recommendations for relatives except as prescribed in the Nepotism Act, Section 52-3-1.

(1) A public officer supervising a relative shall make a complete written disclosure of the relationship to the chief administrative officer of the agency or institution, in accordance with Section 52-3-1.

R477-2-10. Employee Liability.

An employee who becomes aware of any occurrence which may give rise to a law suit, who receives notice of claim, or is sued because of an incident related to his employment, shall give immediate notice to his supervisor and to the Department of Administrative Services, Office of Risk Management.

(1) In most cases, under provisions of the Governmental Immunity Act (GIA), Sections 63-30-36, 63-30- 37, employees shall receive defense and indemnification unless the case involves fraud, malice or the use of alcohol or drugs by the employee.

(2) If a law suit results against an employee, the GIA stipulates that the employee must request a defense from his agency head in writing within ten calendar days.

R477-2-11. Quality Service Award.

When requested by the Director, agencies shall assign employees to serve on the Utah Quality Award Evaluation Panel according to criteria established by section 67-19-6.4 and DHRM.

KEY

administrative responsibility, confidentiality of information, fair employment practices, public information

Date of Enactment or Last Substantive Amendment

July 5, 2002

Notice of Continuation

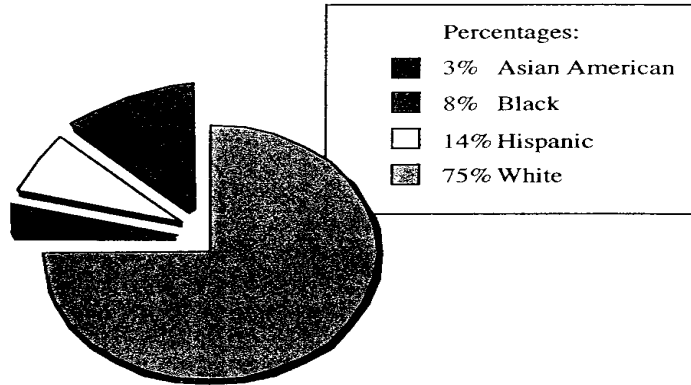
June 11, 2002

Authorizing, Implemented, or Interpreted Law

63-2-204(5); 67-19-6; 67-19-6.4; 67-19-18

Utah Board of Pardons and Parole Ethnic Diversity

Job Category	Total	Male					Female				
		B	W	H	A/PI	AI/AN	B	W	H	A/PI	AI/AN
Board Member (Full Time)	5 100%	1 20%	3 60%					1 20%			
Board Member (Part Time)	4 100%		3 75%				1 25%				
Hearing Officers Administration	12 100%	1 8%	8 67%		1 8%		2 17%				
Support Staff	16 100%		1 6%				10 63%	5 31%			



*The Utah Board of Pardons
and Parole employs 32 full time, and up to
five part time, staff members.*

FORM 2 - SEX OFFENDER CRIMINAL HISTORY ASSESSMENT

These are guidelines only. They do not create any right or expectation on behalf of the offender.

<p>PRIOR FELONY CONVICTIONS (SEPARATE CRIMINAL CONVICTIONS)</p> <p>0 NONE 2 ONE 4 TWO 6 THREE 8 MORE THAN THREE</p>	<p>PRIOR MISDEMEANOR CONVICTIONS (SEPARATE CRIMINAL CONVICTIONS) (INCLUDES DUI & RECKLESS) (EXCLUDES OTHER TRAFFIC)</p> <p>0 NONE 1 ONE 2 TWO TO FOUR 3 FIVE TO SEVEN 4 MORE THAN SEVEN</p>	<p>WEAPONS USE IN CURRENT OFFENSE (ONLY WHEN CURRENT CONVICTION DOES NOT REFLECT WEAPON USE OR WHEN STATUTORY ENHANCEMENT IS NOT INVOLVED)</p> <p>1 CONSTRUCTIVE POSSESSION 2 ACTUAL POSSESSION 3 DISPLAYED OR BRANDISHED 4 ACTUAL USE 5 INJURY CAUSED</p>						
<p>PRIOR JUVENILE ADJUDICATIONS (ADJUDICATIONS FOR OFFENSES THAT WOULD HAVE BEEN FELONIES IF COMMITTED BY AN ADULT)(THREE MISDEMEANOR ADJUDICATIONS EQUAL ONE FELONY ADJUDICATION)</p> <p>0 NONE 1 ONE 2 TWO TO FOUR 3 MORE THAN FOUR 4 SECURE PLACEMENT</p>	<p>NUMBER OF PRIOR VICTIMS (PRIOR SEX OFFENSE VICTIMS, NOT INCLUDING PRESENT VICTIM)</p> <p>0 NO PRIOR VICTIMS 1 ONE PRIOR VICTIM 2 MORE THAN ONE PRIOR VICTIM</p>	<p>TIME RANGE (NUMBER OF YEARS OFFENDER HAS BEEN OFFENDING SEXUALLY)</p> <p>1 ONE TIME INCIDENT 2 WITHIN ONE YEAR 3 WITHIN TWO YEARS 4 TWO YEARS OR OVER</p>						
<p>SUPERVISION HISTORY (ADULT OR JUVENILE)</p> <p>0 NO PRIOR SUPERVISION 1 PRIOR SUPERVISION 2 PRIOR RESIDENTIAL PLACEMENT 3 PRIOR REVOCATION 4 ACT OCCURRED WHILE UNDER CURRENT SUPERVISION OR PRE-TRIAL RELEASE</p>	<p>TOTAL PLACEMENT SCORE: _____</p>							
<p>SUPERVISION RISK (ADULT OR JUVENILE)</p> <p>0 NO ESCAPES OR ABSCONDDINGS 1 FAILURE TO REPORT (ACTIVE OFFENSE) OR OUTSTANDING WARRANT 2 ABSCONDED FROM SUPERVISION 3 ABSCONDED FROM RESIDENTIAL PROGRAM 4 ESCAPED FROM CONFINEMENT</p>	<div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>CRIMINAL HISTORY</p> <table border="0" style="margin: auto;"> <tr> <td style="padding: 0 10px;">III</td> <td style="padding: 0 10px;">7 +</td> </tr> <tr> <td style="padding: 0 10px;">II</td> <td style="padding: 0 10px;">4 - 6</td> </tr> <tr> <td style="padding: 0 10px;">I</td> <td style="padding: 0 10px;">0 - 3</td> </tr> </table> <p style="font-size: small;">PLEASE CIRCLE THE CORRECT CATEGORY</p> </div>		III	7 +	II	4 - 6	I	0 - 3
III	7 +							
II	4 - 6							
I	0 - 3							
<p>VIOLENCE HISTORY (PRIOR JUVENILE OR ADULT CONVICTION FOR AN OFFENSE WHICH INCLUDES USE OF A WEAPON PHYSICAL FORCE, THREAT OF FORCE, OR SEXUAL ABUSE)</p> <p>0 NONE 1 MISDEMEANOR 2 3RD DEGREE FELONY 3 2ND DEGREE FELONY 4 1ST DEGREE FELONY</p>								

CRIME CATEGORY

	1st Degree		D	E	F	G	2nd Degree	3rd Degree	Class A Misd J	
	A	B					H	I		
	Mandatory Prison 15 to Life	Mandatory Prison 10 to Life	Mandatory Prison 6 to Life	Mandatory Prison 5 to Life	5 yrs to Life	3 yrs to Life	1 to 15	0 to 5	0 to 3	
CRIMINAL HISTORY	III	21 YRS	14 YRS	100 MOS	75 MOS	75 MOS	75 MOS	64 MOS	42 MOS	
	II	18 YRS	12 YRS	90 MOS	66 MOS	66 MOS	62 MOS	48 MOS	36 MOS	
	I	16 YRS	11 YRS	80 MOS	60 MOS	42 MOS	42 MOS	42 MOS	32 MOS	

CONSECUTIVE ENHANCEMENTS: 40% or the shorter sentence is to be added to the full length of the longer sentence.

CONCURRENT ENHANCEMENTS: 10% of the shorter sentence is to be added to the full length of the longer sentence.

Matrix timeframes refer to imprisonment only. Refer to the categorization of offenses.

	ACTIVE CONVICTIONS	CRIME CATEGORY	TIME
MOST SERIOUS	_____	_____	_____
NEXT MOST SERIOUS	_____	_____	_____
OTHER	_____	_____	_____
OTHER	_____	_____	_____
		TOTAL	_____

OFFENDER NAME: _____ **DATE SCORED:** _____ **SCORER'S NAME:** _____

FORM 1 CRIMINAL HISTORY ASSESSMENT

These are guidelines only. They do not create any right or expectation on behalf of the offender.

PRIOR FELONY CONVICTIONS
(SEPARATE CRIMINAL CONVICTIONS)

0 NONE
 1 ONE
 2 TWO
 3 THREE
 4 MORE THAN THREE

PRIOR MISDEMEANOR CONVICTIONS
(SEPARATE CRIMINAL CONVICTIONS)
(INCLUDES DUI & RECKLESS)
(EXCLUDES OTHER TRAFFIC)

0 NONE
 1 ONE
 2 TWO TO FOUR
 3 FIVE TO SEVEN
 4 MORE THAN SEVEN

PRIOR JUVENILE ADJUDICATIONS
(ADJUDICATIONS FOR OFFENSES THAT
WOULD HAVE BEEN FELONIES IF
COMMITTED BY AN ADULT)(THREE
MISDEMEANOR ADJUDICATIONS EQUAL
ONE FELONY ADJUDICATION)

0 NONE
 1 ONE
 2 TWO TO FOUR
 3 MORE THAN FOUR
 4 SECURE PLACEMENT

SUPERVISION HISTORY
(ADULT OR JUVENILE)

0 NO PRIOR SUPERVISION
 1 PRIOR SUPERVISION
 2 PRIOR RESIDENTIAL PLACEMENT
 3 PRIOR REVOCATION
 4 ACT OCCURRED WHILE UNDER CURRENT
SUPERVISION OR PRE-TRIAL RELEASE

SUPERVISION RISK
(ADULT OR JUVENILE)

0 NO ESCAPES OR ABSCONDINGS
 1 FAILURE TO REPORT (ACTIVE OFFENSE) OR OUTSTANDING WARRANT
 2 ABSCONDED FROM SUPERVISION
 3 ABSCONDED FROM RESIDENTIAL PROGRAM
 4 ESCAPED FROM CONFINEMENT

VIOLENCE HISTORY
(PRIOR JUVENILE OR ADULT CONVICTION
FOR AN OFFENSE WHICH INCLUDES USE
OF A WEAPON, PHYSICAL FORCE,
THREAT OF FORCE, OR SEXUAL ABUSE)

0 NONE
 1 MISDEMEANOR
 2 3rd DEGREE FELONY
 3 2nd DEGREE FELONY
 4 1st DEGREE FELONY

WEAPONS USE IN CURRENT OFFENSE
(ONLY WHEN CURRENT CONVICTION
DOES NOT REFLECT WEAPON USE OR
WHEN STATUTORY ENHANCEMENT IS
NOT INVOLVED)

1 CONSTRUCTIVE POSSESSION
 2 ACTUAL POSSESSION
 3 DISPLAYED OR BRANDISHED
 4 ACTUAL USE
 6 INJURY CAUSED

TOTAL PLACEMENT SCORE: _____

CRIMINAL HISTORY RISK	
V	16 +
IV	12 - 15
III	8 - 11
II	4 - 7
I	0 - 3
PLEASE CIRCLE THE CORRECT CATEGORY	

CRIME CATEGORY

CRIMINAL HISTORY	A		B		C		D		E		F		G		H		I	
	1st Degree	2nd Degree	1st Degree	3rd Degree	1st Degree	2nd Degree	3rd Degree	2nd Degree	3rd Degree	2nd Degree	3rd Degree	2nd Degree	3rd Degree	2nd Degree	3rd Degree	2nd Degree	3rd Degree	
	Murder	Death	Person	Death	Other	Person	Person	Other	Other	Other	Other	Other	Other	Other	Other	Other	Other	
V	24 YRS	8 YRS	10 YRS	48 MOS	84 MOS	60 MOS	36 MOS	30 MOS	20 MOS									
IV	22 YRS	7 YRS	9 YRS	42 MOS	78 MOS	48 MOS	30 MOS	24 MOS	18 MOS									
III	20 YRS	6 YRS	8 YRS	36 MOS	72 MOS	36 MOS	24 MOS	20 MOS	12 MOS	Intermediate Sanctions								
II	18 YRS	5 YRS	7 YRS	24 MOS	66 MOS	30 MOS	20 MOS	18 MOS	10 MOS	Regular Probation								
I	16 YRS	4 YRS	6 YRS	20 MOS	60 MOS	24 MOS	18 MOS	16 MOS	9 MOS	Misde-meanors								

CONSECUTIVE ENHANCEMENTS: 40% or the shorter sentence is to be added to the full length of the longer sentence.

CONCURRENT ENHANCEMENTS: 10% of the shorter sentence is to be added to the full length of the longer sentence.

Matrix timeframes refer to imprisonment only. Refer to the categorization of offenses.
Capital offenses are not considered within the context of the sentencing guidelines.

	ACTIVE CONVICTIONS	CRIME CATEGORY	TIME
MOST SERIOUS	_____	_____	_____
NEXT MOST SERIOUS	_____	_____	_____
OTHER	_____	_____	_____
OTHER	_____	_____	_____
		TOTAL	_____

OFFENDER NAME: _____ DATE SCORED: _____ SCORER'S NAME: _____

BOPP Agency Response - Attachment 4b



Name _____

USP# _____

BEFORE THE BOARD OF PARDONS OF THE STATE OF UTAH

RATIONALE FOR DECISION ON _____ **FOR** _____
Hearing Date Hearing Type

The Board of Pardons' decision is based on the following factors:

AGGRAVATING

MITIGATING

OFFENDER'S BACKGROUND

- _____ Criminal history significantly underrepresented by guidelines (i.e., more than 4 felony convictions and/or 8 misdemeanors) . . .
- _____ History of similar offenses . . .
- _____ Pattern of increasingly or decreasingly serious offenses . . .
- _____ History of unsuccessful or successful supervisions . . .

CHARACTERISTICS OF THE OFFENSE

- _____ Use of weapons or dangerous instrumentalities . . .
- _____ Demonstration of extreme cruelty or depravity . . .
- _____ Abuse of position of trust, special skill, or responsibility . . .
- _____ Multiple incidents and/or victims . . .
- _____ Personal gain reaped from the offense . . .

OFFENDER'S TRAITS DURING THE OFFENSE

- _____ Motive (intentional, premeditated vs. impulsive, reactionary) . . .
- _____ Role (organizer, leader vs. follower, minimal participant) . . .
- _____ Obstruction of justice vs. early withdrawal or self-surrender . . .

VICTIM CHARACTERISTICS

- _____ Extent of injury (physical, emotional, financial, social) . . .
- _____ Relatively vulnerable victim vs. aggressive or provoking victim . . .
- _____ Victim in position of authority over offender . . .

OFFENDER'S PRESENT CHARACTERISTICS

- _____ Denial or minimization vs. complete acceptance of responsibility . . .
- _____ Repeated, numerous vs. first incarceration or parole revocation . . .
- _____ Extent of remorse and apparent motivation to rehabilitate . . .
- _____ Timeliness and extent of efforts to pay restitution . . .
- _____ Programming (effort to enroll, nature of programming) . . .
- _____ Disciplinary problems or other defiance of authority . . .
- _____ Employment possibilities (history, skills, current job, future) . . .
- _____ Extent of community fear, condemnation . . .
- _____ Degree of meaningful support system . . .
- _____ Nature and stability of release plans . . .
- _____ Unusual institutional vulnerability (due to age, health, other) . . .
- _____ Overall rehabilitative progress and promise . . .
- _____ Lengthy history of alcohol/drug abuse vs. apparent rehabilitation . . .
- _____ Substantial continuous period in custody on other charges . . .
- _____ Likely release to detainer . . .

OTHER

_____ Date

BOPP Agency Response
Attachment 5

_____ Board Member

**Utah State Bar
Response to Recommendations of
Task Force on Racial and Ethnic Fairness**

WORKFORCE: RECRUITMENT/HIRING

1. Agencies in the state of Utah should establish and maintain Equal Employment Opportunity Plans

Implementation Status: The Utah State Bar has adopted an Equal Employment Opportunity Plan to guide staff hiring and has encouraged law firms in Utah to provide equivalent hiring practices.

4. The judiciary and the legal community as a whole should enhance their current minority recruitment efforts and work with minority communities to attract a larger pool of qualified minority applicants.

Implementation Status: The Utah State Bar has begun to devise a comprehensive plan to encourage minority students in high schools and college to focus on a law school education and career in the law. We are also considering a plan to propose to law firms which will assist their recruitment of qualified minority lawyers. Both plans are rough and in need of definition. We have actively participated with the state's job fairs by providing rooms and publicity.

TRAINING

3b. The Utah State Bar should offer Continuing Legal Education (CLE) training on cultural competency for attorneys and paralegals in the criminal and juvenile justice systems.

Implementation Status: The Utah State Bar has sought and obtained Mandatory Continuing Legal Education credit from the Utah Supreme Court's Board of Continuing Legal Education for cultural competence and has scheduled and conducted courses. In addition, the Bar Commission, Bar staff and leadership have participated in 6 hours of training from a University of Utah professor. The Bar has sponsored CLE training on the judicial selection process at its Annual Convention and will be sponsoring a "Judges School" with the Utah Minority Bar Association and Women Lawyers of Utah in April 2003.

4. The court and counsel should, as a matter of policy, warn defendants, who agree to deportation as a condition of the sentence, of the harsh consequences under federal law for violating the condition not to return to the United States without permission from the government.

Implementation Status: The Utah State Bar has been working with the Multi-Cultural Legal Center to prepare an outline of rights for distribution in appropriate channels when completed.

INTERPRETATION

- 2. The public and Bar should be provided with easily retrievable information on individual rights to an interpreter and the availability of interpreter services. Strategies should include: Bar and Court web sites, and Audiovisual and pamphlet materials available in multiple languages.***

Implementation Status: The Utah State Bar has been working with the Multi-Cultural Legal Center to prepare a pamphlet of information on interpreter rights and services for distribution on our web site and in appropriate channels when completed.

COMMUNITY RESOURCES/OUTREACH

- 3. All elements of the criminal and juvenile justice system should collaborate to provide the public and schools with information to better understand our law enforcement and justice system in order to enhance public trust and confidence. This should include: law enforcement complaint process, judicial complaint process, other employee complaint process, annual report on minority bar, and web site information on minority bar and judges, to include tribal courts.***

Implementation Status: The Utah State Bar has just concluded “Dialogue on Freedom”, a comprehensive program which placed over 500 lawyers, judges, legislators and representatives of the executive branch before over 40,000 students in 125 secondary schools in the state to discuss democracy and our system of justice. This experience provides us with a unique opportunity to build upon relationships with the schools and expand the education to include more specific elements of the justice system.

- 4. Minority organizations, including the Utah Minority Bar Association, should anticipate judicial vacancies, encourage minority lawyers to apply and participate directly in the nominating commission and selection processes.***

Implementation Status: Utah State Bar presidents have specifically raised the need for increased diversity on the benches of the state in meetings with Governor Leavitt. We have considered the need for diversity when making recommendations to the governor for the various judicial nominating commissions and have attempted to encourage minority groups to provide names for judicial consideration.

- 5. The Utah Minority Bar Association and other associations should continue efforts to provide scholarships for minority law students and should work toward developing creative methods for expanding its outreach to recruit and encourage minorities to consider pursuing the practice of law.***

Implementation Status: The Utah State Bar is considering providing scholarships.

- 6. The Utah State Bar should promote networking as a means for increasing minority membership and participation. This should include: social events and educational programs, law school programs, internships, scholarships, and mentor programs.***

Implementation Status: The Utah State Bar Commission includes a representative of the Utah Minority Bar Association as an *ex officio* member, meets regularly with the leadership of the Minority Bar Association, and supports its annual dinner. We have also supported various fund raisers of the Multi-Cultural Legal Center, the law schools' diversity job fairs, and are considering appropriate CLE scholarships to minority lawyers.

ADMINISTRATION

- 1. Utahns should be provided a safe and central location to learn more about hate groups and hate motivated violence, to receive information and education on recognizing, reporting, investigating, prosecuting, and punishing of hate crimes, and to report complaints about the handling of their cases.***

Implementation Status: The Utah State Bar has yet not fully considered how it might participate in the establishment of such a center on hate crimes.

- 5. Activities by the State Bar should include: encouraging Utah women of color to participate in bar activities, and coordinating efforts of Young Lawyers of Utah, Women Lawyers of Utah, Bar and Minority Bar Association to increase the number of minority lawyers and their participation in bar activities.***

Implementation Status: The Utah State Bar Commission includes representatives of the Women Lawyers of Utah, the Young Lawyers Division and the Minority Bar as *ex officio* members, meets regularly with their leadership, and supports their regular events. The Bar needs to more specifically address the recommendation and systematically encourage greater participation in activities from the membership of these groups.

- 16. The Judicial Council should request annual reports from the Administrative Office of the Courts and the Utah State Bar outlining their progress in implementation of court workforce recommendations.***

Implementation Status: The Utah State Bar has provided reports when requested and will continue to cooperate in finding solutions to the issues raised in the report.

DATA

- 5. The Utah State Bar and Utah Minority Bar Association should track and report racial data to the Utah Supreme Court, including: number of minorities employed at the Bar, participation of minority lawyers in bar activities and leadership positions, and racial and ethnic composition of Utah State Bar, including applicants for Bar exam.***

Implementation Status: The Utah State Bar has provided reports when requested. Currently the Bar staff of 30 includes 4 minorities, the Bar Commission includes 2 minority commissioners in addition to the *ex officio* members referred to above, and our records estimate that minority lawyers constitute 4% of the total number of lawyers in the state. We are compiling information of the ethnic and racial composition of the Bar applicants.

RESEARCH

- 6. The Utah State Bar should review disciplinary practices for racial and ethnic bias.***

Implementation Status: The Utah State Bar Commission has reviewed the records of the Office of Professional Conduct for any indicia of racial and ethnic bias and concluded that there have been none.

- 7. The Utah State Bar should have the admissions process and procedures reviewed for racial and ethnic bias, and review the bar exam for disparate impact.***

Implementation Status: The Utah State Bar's Admissions Committee is conducting a comprehensive evaluation of admissions rules, procedures and practices, including the composition of the Bar exam. The committee has committed to review of the bar exam for disparate impact.

- 8. The Utah State Bar should examine the reasons behind the large percentage of minority lawyers who have "inactive status" with the Bar. Where appropriate, the Bar should develop internship and placement programs for minorities.***

Implementation Status: The Utah State Bar Commission has reviewed the numbers of minority lawyers who are on inactive status. This attempt was limited to the information available—which was collected through the licensing forms. Information on minority status is done through self-identification and on a voluntary basis, so conclusions may not be considered as reliable. There was no agreement concerning any identifiable reasons. The Bar Commission has discussed internships and placement programs but has yet not found a satisfactory means to accomplish the recommendation.

**Utah Sentencing Commission
Response to Recommendations of
Task Force on Racial and Ethnic Fairness**

WORKFORCE: RECRUITMENT/HIRING

4. *The judiciary and the legal community as a whole should enhance their current minority recruitment efforts and work with minority communities to attract a larger pool of qualified minority applicants.*

The Sentencing Commission generally does not participate in the recruitment of judges or other legal professionals. However, the Sentencing Commission (as part of the Commission on Criminal and Juvenile Justice for administrative support) has recently begun enlisting the help of the Multi-Cultural Legal Center when it hires in-house legal professionals. The Multi-Cultural Legal Center assists in spreading word of positions with CCJJ to minority applicants.

TRAINING

None directed to Sentencing Commission.

INTERPRETATION

None directed to Sentencing Commission.

COMMUNITY RESOURCES/OUTREACH

3. *All elements of the criminal and juvenile justice system should collaborate to provide the public and schools with information to better understand our law enforcement and justice system in order to enhance public trust and confidence. This should include: law enforcement complaint process, judicial complaint process, other employee complaint process, annual report on minority bar, and web site information on minority bar and judges, to include tribal courts.*

This recommendation will be addressed by the Commission on Criminal and Juvenile Justice.

8. *Criminal and juvenile justice entities should establish and maintain ongoing partnerships with community institutions from local government, to civic groups, to religious organizations, to local leaders in order to best meet the community's needs.*

Because the Sentencing Commission has a statutory duty of “responding to public comment,” this is an on-going area of emphasis. The Sentencing Commission has met with groups such as community councils, citizen task forces, victims groups, Families Against Mandatory Minimums, the Utah Republican Hispanic Assembly, and others in order to make presentations and receive input. These partnerships are critical to the Sentencing Commission’s efforts in maintaining ties with the public. Many of these meetings come at the request of the community groups. However, the Sentencing Commission also seeks opportunities to receive input from the public by inviting interested groups to attend policy discussions or to receive a presentation on issues being discussed by the Sentencing Commission.

COMPLAINT PROCESSES

None directed to Sentencing Commission.

ADMINISTRATION

- 1. Utahns should be provided a safe and central location to learn more about hate groups and hate motivated violence, to receive information and education on recognizing, reporting, investigating, prosecuting, and punishing of hate crimes, and to report complaints about the handling of their cases.***

For over three years, the Sentencing Commission was in the forefront on this issue, conducting legal and policy research on hate crimes, recommending hate crimes legislation, and actively advocating that legislation during the 2000 and 2001 General Sessions. During that time, Sentencing Commission members and staff also met with groups and individuals to respond to questions concerning hate crimes and hate crimes legislation. Following the 2001 General Session, the Sentencing Commission decided it would continue to support the concept of hate crimes legislation, but would not recommend and actively advocate a particular hate crimes bill as it had previously done. This decision was made to allow the Sentencing Commission to focus on several other issues which had been neglected in prior years due, in part, to the emphasis placed on hate crimes legislation. However, the Sentencing Commission continues to act as a resource for information on hate crimes by meeting with legislators and interested groups and individuals.

DATA

None directed to Sentencing Commission.

RESEARCH

- 1. The criminal and juvenile justice system should implement management information systems that produce information that captures “what works” predicated on guiding***

principles that provide for a pro-active problem solving approach in dealing with the offender and the offender's family.

This recommendation will be addressed by the Commission on Criminal and Juvenile Justice.

- 16. *The Utah Sentencing Commission should conduct an experiment involving the question of aggravating and mitigating circumstances both in the adult and juvenile justice systems. For example, conduct a "blind" review of recommendations where social information that would identify or suggest the client's ethnicity is deleted in a matched set of minority and non-minority clients. The research should also examine the extent to which chronicity scores contribute to minority overrepresentation. 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.***

The research division of the Sentencing Commission is currently analyzing data collected by the Juvenile Court during calendar years 1999 and 2000 regarding the use of aggravating and mitigating factors. Upon completion of the analysis, a report will be delivered to the Juvenile Justice Subcommittee of the Sentencing Commission and to the Commission on Racial and Ethnic Fairness. The report will address the following issues:

- Are sentences for minorities aggravated or mitigated more or less frequently than sentences for non-minorities?
- Are any individual aggravating or mitigating factors used more frequently for minorities or non-minorities?
- How many aggravating and mitigating factors, on average, are applied in cases of minorities and non-minorities?

The Sentencing Commission feels that this methodology is the most likely to address the core issues of interest to the Commission on Racial and Ethnic Fairness. This information will also be of assistance to the Sentencing Commission as it embarks on an effort to rewrite the aggravating and mitigating factors for the Juvenile Sentencing Guidelines.

The existence of electronic data on aggravating and mitigating factors in the juvenile system makes this analysis much easier than a similar analysis of the adult system. Because there is no electronic data on aggravating and mitigating factors in the adult system, that analysis will involve a manual search through case files to determine which factors were used. Therefore, the Sentencing Commission decided to begin with the juvenile system and use that experience to fine-tune the methodology of analyzing the use of aggravating and mitigating factors in the adult system.

- 19. *The Utah Sentencing Commission should evaluate the application of aggravating and mitigating factors in sentencing, as opposed to the use of "strength-based" and "risk-focused" models, to determine if racial and ethnic bias occurs in that application.***

During preliminary discussions on this issue, members of the Juvenile Justice Subcommittee of the Sentencing Commission have expressed concern with a risk-focused sentencing model. While risk factors other than delinquency history are certainly appropriate in determining which services should be provided to a particular defendant once a sentence has been imposed, there is a question about their validity and fairness in the sentencing process.

The Sentencing Commission is awaiting the results from recommendation 16 above to further guide discussion on this item.

**Commission on Criminal and Juvenile Justice
Response to Recommendations of
Task Force on Racial and Ethnic Fairness**

WORKFORCE: RECRUITMENT/HIRING

1. Agencies in the state of Utah should establish and maintain Equal Employment Opportunity Plans.

The Utah Commission on Criminal and Juvenile Justice (CCJJ) is not required by federal law to establish or maintain an Equal Employment Opportunity Plan due to the fact that CCJJ does not employ more than 50 individuals. There are currently 13 full-time and 1 part-time “at-will” staff employed by CCJJ.

Although CCJJ is not required to have an EEO Plan, we value diversity and promote equal opportunity in our hiring practices and among the membership of the various boards and commissions associated with CCJJ. For example, the Utah Sentencing Commission and the Utah Substance Abuse and Anti-Violence Coordinating Council each have a representative from the ethnic community. These positions are defined by state statute. The Utah Board of Juvenile Justice has six members that represent various ethnic minority communities. The Governor has appointed these members.

CCJJ also provides training for units of local government and community-based agencies on EEO Plans. As per federal guidelines, all agencies that receive \$25,000 or more in federal funds AND have 50 or more employees must have an approved and written EEO Plan. In July 2000, CCJJ and the Department of Justice’s Office of Civil Rights provided training to all of our subgrantees on the EEOP requirement and how to strengthen existing plans or develop new plans.

CCJJ continues to have a role in monitoring each subgrantee’s EEO Plan to ensure that it exists and it follows the 7 Step Guide as outlined in the federal regulations. We forward all plans to the Office of Civil Rights for approval or rejection and for continued monitoring. We also ensure that plans are updated every two years. Subgrantees that fail to provide updated plans as required have had funding temporarily suspended until the plans are received. We are not, however, responsible for monitoring the actual implementation of the EEO Plan. The Office of Civil Rights reserves that authority.

4. The judiciary and the legal community as a whole should enhance their current minority recruitment efforts and work with minority communities to attract a larger pool of qualified minority applicants.

When vacancies become available at CCJJ, they are typically filled from within the office or through word-of-mouth and contacts with various agencies. Notices of openings have been shared

with the Multi-Cultural Legal Center, the Governor's Ethnic Affairs Offices, and members that serve on the Task Force for Racial and Ethnic Fairness in the Legal System.

7a. *The governor should ensure that every judicial nominating commission has a racially diverse membership.*

Under Utah law, the governor is responsible for nominating some, but not all of the members of the judicial nominating commissions. Racial diversity of these commissions and, specifically, the race or ethnicity of a particular nominee is one of several considerations.

7b. *The judicial nominating commissions and governor should adopt a policy that expressly recognizes the importance of racial and ethnic diversity in the nomination and appointment of judges.*

Being appointed to the bench involves an extremely rigorous selection process. In turn, depending upon the specific position being filled, the list of candidates, and any host of other relevant and appropriate circumstances, this decision is largely subjective, both for the nominating commissions and governor. The governor follows constitutional and statutory guidelines. In addition, he is personally sensitive and approving of the benefits of racial and ethnic diversity. He does not establish explicit guidelines regarding his choice from among judicial candidates because his duty to select judges is by its constitutional nature wholly discretionary. Establishing guidelines could create a formula under which discretion is limited if not constrained. Moreover, explicit guidelines are, in effect, a standard against which third parties could seek legal relief. A lawsuit complaining that the governor failed to follow a standard could have the effect of letting sitting judges decide whether or not to accept a colleague onto the bench.

The Executive Director of CCJJ is significantly involved in the examination, interviewing, and counseling over the governor's appointment of judges. Racial and ethnic diversity is specifically discussed, considered, and weighed in the balance, but is not determinative one way or another in the judicial appointment process.

COMMUNITY RESOURCES/OUTREACH

- 1. *The State Office of Education should consider the following as strategies to assist in developing the pool of qualified minority applicants for criminal and juvenile justice careers:***
 - *a pilot criminal and juvenile justice academy/magnet school at the high school level that focuses on the many career opportunities in the criminal and juvenile justice system.***
 - *incorporating criminal and juvenile justice issues into the high school curriculum.***

Although this recommendation is not directed at CCJJ, our office has provided funding to local communities that has aided in the implementation of law-related education programs. These programs have brought law enforcement officers into the schools to teach students about the Utah justice system. In the process, students also learn about careers in law enforcement. CCJJ will continue to support these efforts as funds allow and as efforts dictate.

2a. *The State Office of Education, via their “Prevention Dimensions” K-12 curriculum, should take a leadership role in partnering with the courts, state government, local government, legal organizations, and community groups, to teach the community and students about respect for different cultures, tolerance of difference, and understanding about what constitutes a hate crime.*

Although this recommendation is not directed at CCJJ, our Anti-Violence Coordinator has maintained membership on the Prevention Dimension Steering Committee. This committee provides advice, direction and oversight for how Preventions Dimension is implemented and taught in Utah classrooms. Members are also involved in the actual writing of the curriculum, including components on diversity.

3. *All elements of the criminal and juvenile justice system should collaborate to provide the public and schools with information to better understand our law enforcement and justice system in order to enhance public trust and confidence. This should include:*

- *law enforcement complaint process,***
- *judicial complaint process,***
- *other employee complaint process,***
- *annual report on minority bar, and***
- *web site information on minority bar and judges, to include tribal courts.***

CCJJ’s role in this recommendation has been the awarding of federal and state grants for programs that promote a better understanding of Utah’s justice system. Funds have been provided for the translation of court materials, for the production of a court education videotape aimed at parents, and for studies that examine racial and ethnic fairness in the legal system. These programs all contribute to enhanced public understanding about how Utah’s justice system functions.

8. *Criminal and juvenile justice entities should establish and maintain ongoing partnerships with community institutions from local government, to civic groups, to religious organizations, to local leaders in order to best meet the community’s needs.*

The various boards and commissions affiliated with CCJJ allow us to have an on-going dialogue with members from various communities. This dialogue is often facilitated by our membership, through personal invitation, at the request of specific groups, and through program partnerships.

ADMINISTRATION

1. Utahns should be provided a safe and central location to learn more about hate groups and hate motivated violence, to receive information and education on recognizing, reporting, investigating, prosecuting, and punishing of hate crimes, and to report complaints about the handling of their cases.

This will be addressed by the Utah Sentencing Commission, which is housed at CCJJ.

12. The Legislature, county and local governments should provide additional financial resources to bring all prosecutor and legal defense offices up to the equivalent provided to the Salt Lake District Attorney's Office and the Salt Lake Legal Defender's Association.

This recommendation does not apply directly to CCJJ. However, CCJJ can help facilitate discussion on this recommendation if state and local governments wish to pursue this course of action.

DATA

10. Criminal and juvenile justice agencies should conduct annual reviews as well as confidential exit interviews for employees that include a question regarding racial and ethnic fairness in the employee's work environment.

CCJJ employees are encouraged to discuss matters of racial and ethnic fairness in the workplace with their supervisor anytime such issues arise.

RESEARCH

1. The criminal and juvenile justice system should implement management information systems that produce information that captures "what works" predicated on guiding principles that provide for a pro-active problem solving approach in dealing with the offender and the offender's family.

CCJJ, through the Utah Board of Juvenile Justice, is currently conducting a comprehensive evaluation of its federally-funded juvenile justice programs. This evaluation effort, commencing its second year, involves the administration of two survey instruments for all program clients. Surveys are given pre-program and post-program for comparative purposes. A database of this information is being developed and will help identify program models that are most effective in reducing juvenile delinquency.

In accordance with its statutory duties, CCJJ is increasing the systems research and evaluation capacity through a research consortium with the University of Utah. The Criminal and Juvenile

Justice Consortium (CJC) is a developing partnership with the varying colleges at the University to provide justice research including evaluations of specific programs and principles. Also, CCJJ has recently contracted with an economics professor to create a sophisticated costs/benefits tool which will provide additional information on a given program for offenders.

Preparation and printing of this document financed by the U.S. Department of Justice - Bureau of Justice Assistance and the Utah Commission on Criminal and Juvenile Justice grant numbers:
Byrne 2D74 and JAIBG 1M06.