

Commission Implementation Report

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

March 2004

Equality before the law in a true democracy is a matter of right. It cannot be a matter of charity or of favor or of grace or of discretion.

-U.S. Supreme Court Justice Wiley Rutledge

America did not invent human rights. In a very real sense, it is the other way around. Human rights invented America.

-Former President Jimmy Carter

We must learn to live together as brothers or perish together as fools.

-Reverend Dr. Martin Luther King, Jr.

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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Sidney Groll, *Director, Peace Officer Standards and Training; Commission Co-Chair*
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Jah-Juin Ho, *Commission Director, Administrative Office of the Courts*

* These persons have served on the Commission, have resigned, and have been replaced by others listed.

*The Citizen Advisory Council to 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*.

TABLE OF CONTENTS

Forward by Judge William Thorne.....	6
Forward by Sidney Groll.....	7
Forward by Keith Hamilton.....	8
Forward by Leticia Medina	10
Executive Summary.....	11
Introduction.....	19
Advisory Council.....	24
2004 Commission Priorities and Subcommittee Plans.....	27
Complaints Process.....	28
Community Involvement.....	32
Recruitment/ Outreach.....	35
Research	37
Indigent Defense.....	40
Implementation Progress At-A-Glance.....	41
Appendices (Agency Implementation to Date)	
Salt Lake Legal Defender Association.....	66
Statewide Association of Public Attorneys	73
Utah Board of Pardons and Parole.....	76
Utah Chiefs of Police Association.....	87
Utah Commission on Criminal and Juvenile Justice.....	93
Utah Department of Corrections.....	100
Utah Department of Public Safety	
Utah Highway Patrol.....	108
Utah Division of Youth Corrections.....	121
Utah Peace Officer Standards and Training	127
Utah Sentencing Commission.....	136
Utah Sheriffs Association.....	140
Utah State Bar Association.....	148
Utah State Courts.....	153

FORWARD by Chair, Honorable William A. Thorne

In reflecting on the years of effort by, the Task Force on Racial and Ethnic Fairness and its successor, the Commission on Racial and Ethnic Fairness, I am struck by the good will and determination demonstrated by all aspects of the criminal and juvenile justice system here in Utah. I think we in Utah tend to denigrate our place in the modern world. This sometimes may have a basis in reality, but often it is unjustified. One of those instances when we do not give the people of this State enough credit is in how they have responded to the challenge of assuring that our justice system is fair. Please don't misunderstand. I am not saying our system is without flaw. Like all human institutions, our justice system doesn't always live up to our ideals. But what has amazed and gratified me is the response that has been generated in answer to the questioning and the probing and the examination into the fairness of our system here in Utah. Certainly there has been a fair amount of defensiveness on the part of some people in the institutional components of the justice system, as well as an eagerness to embrace a victim's stance by some parts of the various communities. But remarkably, throughout all this, everyone is still at the table.

While at the table, in the form of the Commission on Racial and Ethnic Fairness, what I have observed is a genuine respect as the members listen to points of view they may not share. Further, there is a recognition that both perception and "reality" are essential components in a truly fair justice system. Virtually everyone around the table acknowledges that improvements are both necessary and possible. And most importantly, all are committed to making improvements - in both areas, measurable observable fairness as well as the perception of fairness.

There are many occurrences in the world around us, inside our country as well as outside, that do not give much cause for hope. What has been taking place in the Commission helps to balance the equation. The Commission on Racial and Ethnic Fairness ought to be a source of pride for it embodies those virtues which have historically been a part of this state - self-reliance combined with a sense of communal responsibility, a concern for fairness and a desire to do right, and a focus on making the future better for our children. All of these virtues are present in the men and women, whether representatives of state agencies or different parts of our communities, who chose to voluntarily sit around the table and join in an effort to make a more fair and just community. Thank-you Utah, for making this type of enterprise possible. And thank-you to the people who have given so freely of their time to engage in this effort.

FORWARD by Co-Chair, Sidney Groll

When it comes to racial and ethnic fairness, the Criminal Justice System as a whole is a very complex and forbidding system for many citizens to understand. Law enforcement is placed at the forefront of interaction with all citizens in the state of Utah. Therefore, it is imperative that law enforcement agencies across the state step up their efforts to ensure equality and fairness as it relates to all citizens; especially officers that may not understand the complications of the justice system or have language skills that create barriers for them in the field. Likewise citizens have similar responsibilities to understand the Criminal Justice System.

Some of the greatest opportunities for fairness lie within the responsibility of law enforcement to their citizens. The interaction between citizens and law enforcement will generate answers and relationships that transcend across the whole Criminal Justice System.

Over the past year we have seen a number of law enforcement agencies step up and communicate with various citizen groups. Law enforcement has been involving themselves in policy development, information packets and recruiting efforts that have moved toward ensuring a better representation of citizens in the Criminal Justice System. Through the efforts of the Racial and Ethnic Fairness Commission it has empowered law enforcement agencies to be able to move forward in a very constructive way. It has also given support to those agencies looking at potential model policy formulation, additional ideas for recruiting, and a broader opportunity for training officers as they come into the profession.

Organizations such as the Utah Chiefs of Police Association, Utah Highway Patrol, Utah Sheriff's Association, and the Department of Corrections have placed a higher emphasis on their role in training, understanding and facilitating dialogue with ethnic groups that have come forward over the past year. It seems that the issues that were brought forward by the Racial and Ethnic Fairness Commissions have been taken more seriously over the past year than ever before, thus helping this process along.

This being said, there continues to be an ever-present need for additional training, for better understanding, for more informed officers in the field, for more opportunities for citizens to understand law enforcement's role and other portions of the Criminal Justice System. So there is great work to be done still as we progress in our responsibilities to the citizens of Utah.

FORWARD by Co-Chair, Keith N. Hamilton

It has been a great honor and privilege to serve as a Co-Chair of the Utah Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System. I am impressed by the genuine efforts of so many community and governmental agency leaders to address implementation of solutions to the various problems facing the provision of fair and equitable justice to all residents of Utah. I am equally impressed by the desire and effort of the general public to assist the Commission in its mission by attending public hearings and letting its voice be heard. Specific mention, however, must be made regarding Commission Chair, Judge William Thorne, for his inspired and insightful leadership, and Jah-Juin Ho, Commission Executive Director, for his dedicated and tireless service in moving the Commission's agendas and projects forward.

I have been associated with this effort for nearly seven years now since my service on the Courts Subcommittee of the Utah Judicial Council's Task Force on Racial and Ethnic Fairness. The association has been very rewarding and educational. I began in this effort as the only person of color serving as a member of the Utah State Board of Pardons and Parole. In August 2003 I moved on to private practice, yet retained my position as a Co-Chair of the Commission. I am very grateful to those who supported my retention.

In the Commission's first annual report, published January 2003, we noted the distinction between perception and reality. My nearly twenty years experience in criminal justice teaches me that when it comes to fairness and equity, particularly in the legal system, one's perception *is* his or her reality. In the past year the Commission has worked very hard to address and, where feasible, implement measures that would improve the public's perception of fairness in the criminal and juvenile systems. Critics may consider our efforts insufficient, and I agree that we have not accomplished all we set out to do this past year, but we are definitely on a path toward making our adult and juvenile systems of justice better and fairer for all residents of Utah.

I am hopeful and optimistic about what lies ahead for Utah's criminal and juvenile justice systems. I am confident that with each passing year improvements will occur and solutions will be identified and implemented.

The Commission and its Advisory Council are comprised of a diverse group of people who come to the table each month bringing a wealth of knowledge, experience, and good-old-fashioned "know-how." Each member of the group also brings his or her own agendas, biases, and perceptions. Yet, no voice is stifled at the table. No perception or observation is unworthy of consideration at the table. It is remarkable that such a diverse group has not only come together, but also worked effectively together, for the common cause of improving Utah's systems of justice.

While I applaud the efforts of the Commission and the Advisory Council, I am not so naïve to believe that such bodies will ever be very effective in making marked change. I firmly believe it is up to you and me individually to make the difference in improving Utah's system of justice. Thus, in response to the Task Force recommendations concerning minority recruitment efforts, I

have, through my law office and in conjunction with the Utah State Office of Black Affairs and the Utah Peace Officer Standards and Training Academy, established two annual scholarship awards for persons interested in pursuing a career in criminal justice. One is a \$2,000 award for a qualified candidate to attend college and pursue a degree in a criminal justice related field; the other is \$3,000 award for a qualified candidate to complete training at the Utah Peace Officer Standards and Training (P.O.S.T.) Academy, preparatory to starting a career in law enforcement. The application period for both awards will be from February 1st through May 31st of each calendar year, and the award recipients will be announced, and the awards made, in June preparatory to the start of Fall semester classes at college or the P.O.S.T. Academy's August class. The awards will be made to the college or to the P.O.S.T. Academy on behalf of the recipient. For more information concerning the scholarship awards contact Bonnie Dew, Director, Utah State Office of Black Affairs, at 801-538-8829/877-488-3233 (toll-free) or through e-mail at bjdew@utah.gov.

I believe individually and collectively we must constantly remain vigilant and speak out and fight against injustice and unfair treatment wherever and whenever we see it or learn of it. Individually, we each must take personal responsibility for doing what we can to improve the quality of life for all residents of Utah. One person at a time we each must treat everyone with courtesy, dignity, and respect. One home at a time we must teach the rising generations to be fair and equitable to all, regardless of an individual's race, ethnicity or belief system. Then, and only then, will Utah achieve a system of justice where public and individual perception equals a reality of true fairness and equity.

Until that long-awaited day arrives, I extend my sincere and heartfelt invitation for all who read this report to do, as members of the Commission and Advisory Council have done and will continue to do, whatever you can to move things forward along the path toward a truly fair and equitable system of justice for all in Utah.

FORWARD by Co-Chair, Leticia Medina

With the twenty-first century, the legal and social complexities facing law enforcement, corrections, courts, and ethnic communities continue the demand for fairness at all levels of the justice system. Utah's changing demographics is proof that we need to be flexible in understanding, accepting and respecting differences. Throughout the year there were many discussions and debates on perceptions, and on anecdotal evidence vs. facts. These discussions are continuing, which in itself provides an environment of self-examination of our own attitudes and biases.

The Commission has reviewed written materials and heard presentations from the various departments with the responsibility of being equally responsive to ALL citizens of Utah. The Commission has identified that some issues will require time. The continued effort of all to accept that diversity is strength, will and has contributed greatly to the development of our justice system.

We should be proud of the work that has been put forth by the Commission and its leadership toward addressing issues of racial and ethnic fairness in our justice system.

EXECUTIVE SUMMARY

This Second Annual Commission Implementation Report documents the work and accomplishments of the Commission on Racial and Ethnic Fairness in the Criminal Justice System and the criminal justice agencies in their efforts to implement the recommendations of the Task Force on Racial and Ethnic Fairness in the Legal System during the year 2003.

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 on 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, track implementation efforts, conduct research, support activities deemed necessary to further the Commission's mission, and contribute to the Commission's annual report. The first annual Commission Implementation Report was an individual agency self-report and did not include evaluation by either the agency or the Commission as to the effectiveness of the implementation. Statements about the progress were the conclusions of the agencies. This second annual report

of the Commission attempts to remedy some of the concerns of agency self-reporting.

While recognizing that there is still a long way to go before reaching the type of evaluation intended by the Task Force and anticipated by the community, the following mechanisms were put in place for this report: Commission subcommittees, Commission members, the Commission director and the Advisory Council were all asked to contribute feedback from initial agency responses. This process will be fine-tuned and formalized in subsequent reports. Due to the nature of the organization of some agencies, the substance and organization of the reports may vary widely. Significantly, the Commission, criminal justice agencies and the Advisory Council remain at the table, committed to racial and ethnic fairness in Utah's criminal justice system.

Agency Implementation and Task Force Recommendations

This year has been marked by many transitions. Several Commission plans were put on hold during the first half of the 2003 reporting period due to the absence of Commission staff. That problem has since been remedied and much work has moved forward. Similar to last year, each member agency has hosted a Commission meeting. The format for each meeting includes an update by the Advisory Council, subcommittee reports, and a presentation on specific issues that have been brought to the attention of the Commission. Each agency is expected to continue addressing Task Force recommendations, individually. Member agencies are encouraged to bring forward projects and ideas that could benefit the community or the Commission.

For this annual report, Commission agencies responded to the Task Force recommendations in each related area, listed below. Additionally the *progress-at-a-glance* section provides a snapshot of agency progress being made in each category. The activities highlighted below represent agency, Commission and/ or Commission subcommittee work that relate to the specified Task Force recommendations.

Work Force Recruiting Hiring

The need for workforce diversity in all areas of the legal system was an issue raised. Inherent in the Task Force recommendations 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.

During the reporting period, the recruitment subcommittee focused on strategies to increase employment of minorities in all law enforcement and criminal justice related occupations.

- A working group of law enforcement officers from across the state has been formed to assist the subcommittee in the efforts to attract qualified minorities into the law enforcement profession. This group will target minority students and, assisted by high school resource officers, will provide mentoring support.

- A focus group of newly hired Juvenile Court Probation Officers and Youth Correction Case Managers was formed to assist in developing strategies for improving minority recruitment and hiring during the coming year
- Commission Co-Chair Keith N. Hamilton, in conjunction with the Utah State Office of Black Affairs and the Utah Peace Officer Standards and Training Academy, has established two annual scholarships for persons interested in pursuing a career in criminal justice.

Training

A cultural competency training curriculum was developed and made available to the agencies for training purposes in 2002. Agencies have either used the program or developed their own. The training of current employees has been completed or in progress by most agencies. There have been limitations, in some instances, due to budgetary constraints. Newly-hired Court and Correctional employees are required to take the competency training as part of the training for their positions.

- The Cultural Competency curriculum developed earlier continues to be utilized by agencies for training and education purposes.
- The Cultural Competency curriculum remains a requirement for all new court employees and a secondary course is being considered for employees on a voluntary basis.
- Rights of individuals to serve on juries irrespective of race or ethnicity and selection of jurors from a cross-section of the community was addressed in the annual judicial conference training session.

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. Additionally, for immediate response, an AT&T language line is available for law enforcement officers in the field.

Community Resources, Involvement/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. Sample efforts included:

- Town meetings for and with local ethnic communities, public administrators and law enforcement officers. Town meetings were conducted for the Latino/Migrant community in Ogden, Utah, the African American and Native American communities in Salt Lake

City, Utah, and the Asian American community in West Valley City, Utah.

- Plans to integrate communication between the Commission, community, and the Advisory Council, as well as designs to strengthen the role of the Advisory Council and enhance accountability for the implementation of the Task Force recommendations.
- Key issues that emerged from the 2003 Town Meetings were identified and specific needs were passed along to the responsible agencies.
- Local administrators and law enforcement officers will be recognized for their efforts to promote equity and fairness in the criminal justice system.

Complaint Processes

Concerns raised by the public for adequate and user-friendly complaint processes underscored a need for a readily accessible written document explaining the 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. To address deficiencies in the system the Commission:

- Adopted a form to receive complaints that come directly to the Commission.
- Is currently conducting a survey which includes an assessment of those law enforcement agencies that utilize a written complaint process with the goal of insuring that 100% of law enforcement agencies have a meaningful, user-friendly written complaint process.
- Is working with law enforcement leadership organizations to create, as a criteria for accreditation, a written document describing agency complaints processes.

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 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.

- The data collected by the Racial Profiling law is under review. The Commission is studying strategies to educate the public regarding the importance of entering the race data on their driver license applications. With the passage of the Racial Profiling law it

will take approximately five years to collect sufficient 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 are either in progress or have yet to be implemented.

- The Salt Lake City Prosecutor's Office in conjunction with and as a member of the Statewide Association of Public Attorneys has initiated an internal audit to examine the issue of race and ethnic fairness with its prosecutorial mission. This internal audit includes an examination of the Salt Lake City Prosecutor's Office Work Composition.
- The Salt Lake City Prosecutor's Office determined that, as a public institution, it has an obligation to self-examine any alleged bias or prejudice in its functions both for itself (internally) and for the role it plays (externally with other agencies) in the larger context of the criminal justice system.
- The discovery of any questionable practices would serve as an institutional win. The real importance is that a public institution is proactively seeking to remedy perceived or actual bias. The only loss in this equation would result from the failure to do anything as a public institution. Perceptions must be addressed even if not true, and if true, the necessity is self-evident.
- Preliminary findings indicate no clear patterns of bias or prejudice in the Salt Lake City Prosecutor's Office, but do highlight areas requiring further examination to fully understand the relationships between race, ethnicity and the process of the justice system.

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

Systemic Implementation

The Commission continues to track and monitor the performance of HB 101, Racial Profiling, passed during the 2002 General Session. The bill remains important to enhance the ability of agencies to gather data solely for research purposes. The Commission's efforts to examine and enhance the performance of this legislation is ongoing. During this reporting period the Commission has not engaged in any legislative efforts. However, the Commission has under review, for the coming year, its role in the passage of hate crimes legislation.

2004 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, in 2002 the commission formed five Subcommittees to provide deliberate and focused attention to specific collective goals. These subcommittees are: Community Involvement; Complaint Processes; Indigent Defense; Outreach/Employment and Recruitment; and Research. To better improve efforts, in late 2003 the Commission decided to merge portions of the Indigent Defense Subcommittee into the Research and Community Involvement Subcommittees. Recognizing the importance of indigent defense, the merge occurred with the understanding that the Indigent Defense Subcommittee will be reconstituted in the near future, if not by the end of the 2004 calendar year.

In 2002, each of the Subcommittees articulated a mission/focus and action plan for the 2003 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. Recognizing that these goals take time to accomplish and it is more important to make meaningful change rather than finishing quickly, it was decided to maintain the same priorities for the 2004 calendar year. The priorities are as follows and address issues concerning the new Racial Profiling law, communication between the community and the Commission, minority recruitment, and formalizing complaint processes:

- 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.
- Develop strategic plans/goals to bridge, facilitate tensions, and integrate communication processes and information exchange between the Commission, Advisory Council, and community.
- Strengthen and expand the pool of applicants of color.
- 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 2004, please see **2004 Commission Priorities and Subcommittee Plans**.

2004 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 serve as Co-chairs. The Operations Committee was also enlarged

to include a representative from each of the Subcommittees. 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 provides an avenue for creating and maintaining dialogue between the Commission and the 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.

The Advisory Committee must play a significant role as the community's voice if the implementation effort is to succeed. The Advisory Council, like the implementation effort, will continue to evolve and this evolution requires time. The Advisory Council provides the community the opportunity to accept its share of responsibility as an essential stakeholder in the success of the implementation effort.

For complete information concerning the Advisory Council, please see **Advisory Council**.

Conclusion

The Commission on Racial and Ethnic Fairness in the Legal System continues to recognize that achieving racial and ethnic fairness in the criminal justice system is a challenging, ongoing process of evolution, filled with new issues and complexities that arise almost daily. The process requires flexibility to meet changing needs, patience to soften and resolve hard-fastened

historical attitudes and practices, and above all, an abiding conviction to guarantee fundamental fairness in the criminal justice system.

The Commission continues to struggle with a lack of resources, which has many ramifications, including problems in maintaining staff continuity which slowed the progress of the Commission during this reporting period. It will be important for the Commission to maintain and enhance momentum within the criminal justice agencies and guard against complacency in order for the criminal justice system to avoid management by crisis. The challenge will be to raise the priority of the issue of racial and ethnic fairness within all criminal justice agencies. It is important to note that, as of this report, many key players remain at the table, invested in delivering fairness and equity in the criminal justice system.

The Salt Lake City Prosecutor's Office internal audit is a major sign of progress. The responsibilities of the Commission and all criminal justice agencies are clearly exemplified in the internal audit wherein it states:

The office, as a public institution, has an obligation to self-examine any alleged bias or prejudice in its functions both for itself (internally) and for the role it plays (externally with other agencies) in the larger context of the criminal justice system.

The Commission remains committed to the implementation effort.

INTRODUCTION

It has been three 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 continuing 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

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 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

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

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 plays 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 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. Initially chaired by former Chief Justice Michael D. Zimmerman, the first year of 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.

Completing the transition between the Task Force and Commission, in 2002 the Commission formed a new leadership body. Currently chairing the Commission is Court of Appeals Judge William A. Thorne. Sidney Groll, Director of Peace Officers Standards Training, Keith Hamilton, private attorney-at-law, and Leticia Medina, Director of State Community Service, serve as co-chairs. The Commission is intended to be an independent body comprised of 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.

This first year of the Commission served as 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. During this second year, much of the focus at Commission meetings has shifted to inter-agency collaboration. The Commission has utilized its subcommittees to address systemic concern with the legal system (see subcommittee reports). Along with agency cooperation, the Commission recognizes the fundamental importance of working with communities and is continually working on improving lines of communication.

Although the highest priority is placed upon implementing Task Force recommendations, the Commission is working 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 Legal 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. Additionally, an Executive Committee to the Advisory Council was created in November 2002 to direct the operations of the Advisory Council.

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.

2003 ANNUAL REPORT

The Commission is pleased to present this second 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 2003 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.

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

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 first part of 2003 was marked by the transition of staff leadership through three successive

Commission directors. During this period of adjustment some activities were put on hold. As a result, the Advisory Council does not have anything to report for the period between January 2003 and June 2003. However, as proof of its versatility and commitment to racial and ethnic fairness, many activities were initiated in the latter part of 2003 to regain momentum.

The Advisory Council actively worked with the Community Involvement subcommittee in planning and advertising town hall hearings. In many cases the Council was at the forefront of mobilizing communities to participate in open dialogue with state agencies. Four public hearings were held between July 2003 and November 2003 with several others planned for the early part of 2004. As a result of this dialogue, several communities stepped forward, requesting town meetings of their own. Legal education classes are now being taught regularly at the Indian Walk-in Center as a result of concerns raised at the town hearings.

This Council, similar to the Commission, realizes the necessity for communities to have a stake in the process of improving racial and ethnic fairness in the legal system. The need for community input is central to the function of this Council. As a means to serve its mission as a liaison between communities and the Commission, the Advisory Council promoted community concerns at Commission meetings. Priorities brought up at meetings included: issues between local agencies in Ogden and the community, interpreter needs at initial intake and probation, and a proposed standard on the use of deadly force.

In November 2003 the Advisory Council brought to the attention of the Commission community concerns with the legal system in Ogden. As a result, a subcommittee was formed to work with local agencies and the community to facilitate dialogue and pursue options for improving access and communication. This subcommittee is still in the process of facilitating dialogue.

A subcommittee was formed in December 2003 to work in conjunction with the Utah State Bar and the Commission to plan activities related to the 50th anniversary of the Brown v. Board of Education decision. Advisory Council involvement will include determining locations for a rotating film, selecting relevant films, identifying potential panel speakers and participating in planning newspaper inserts and articles.

For the 2004, among other activities, the Advisory Council is examining rotating meetings North and South of the Greater Salt Lake area. This is an attempt to reach a broader range of community members and gain perspectives of racial fairness from other parts of the State. Also, early on, to become more effective, the Advisory Council members noted the need to educate themselves about the legal system. To address this concern educational presentations by various segments of the legal system are included in Advisory Council meetings. Previous presentations have included: the Board of Pardons, Juvenile Court, and Corrections re-entry initiatives. Meeting topics have also revolved around current community concerns, including: effective hate crimes legislation, complaints within the legal system, and supporting a minority judge for reappointment.

On November 5, 2002, the Advisory Council elected its leadership for 2002 - 2004. With

transitional changes, the Executive Committee currently consists of Chair Mary Daniels, Vice-Chair Larry Houston, and At-Large members Jan Saeed, Deidre Tyler and Tony Yapias. Commission ties will continue through the seven members elected at the beginning of the year.

Response to the Annual Report

At the request of the Commission and in an effort to work with the community, a subcommittee to the Advisory Council reviewed the annual report prior to its release. The intent was to provide community feedback to member agencies. In its evaluation, the subcommittee agreed that while the Commission has shown a sincere effort to improving racial and ethnic fairness, there is still a long way to go.

Across the board, the subcommittee agreed that data collection and statistics are an important component of any effort for racial fairness. In future annual reports, agencies should provide statistics on their work force composition. The Division of Youth Corrections, Salt Lake Legal Defenders and Salt Lake City Prosecutors should be applauded in their efforts in this aspect. The ideal would be for agencies to have a workforce reflective of the populations that they serve.

Additionally, this subcommittee was surprised to learn that only three of fifty-six judicial nominating commission members are minorities. Communities, the Commission, the Bar, and agencies should work together to promote qualified minority candidates for the Judicial Nominating Commissions. The nominating commissions should be even more diligent in pursuing potential minority candidates to the Governor's Office. The Governor's Office should take a higher consideration of the need for a diversity of backgrounds when making selections. The Utah Minority Bar Association has been promoting candidates for nominating commissions. It would be a tremendous benefit to minority communities to see those efforts bear fruit.

This subcommittee also agreed that training and interpretation are important issues for all agencies. The cultural competency training courses that have taken place at almost every Commission agency are a great start to recognizing the importance of diversity. However, as mentioned in the Task Force recommendations, training should be on-going. Some agencies have already begun this process and it should be a process that all agencies participate in.

A topic of dialogue that was not addressed this year was hate crimes legislation. While all member agencies are supportive of hate crimes legislation, no clear efforts have been made. SWAP and CCJJ have worked significantly in the past to promote effective hate crimes legislation. The Advisory Council and this subcommittee recommend that the Commission promote the passage of an effective hate crimes in future legislative sessions.

2004 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.

In 2002, to better address implementation, the Commission formed five subcommittees to enhance 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 2003 year (see individual reports). At the Commission's October 2002 meeting, members voted on four priorities that became the focus of the Commission's work for the 2003 calendar year. As these priorities reflect significant commitment and ongoing activity, they will remain the focus for 2004 and will be revisited at the end of the year.

Commission Priorities

- 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.
- Develop strategic plans/goals to bridge, facilitate tensions, and integrate communication processes and information exchange between the Commission, Advisory Council, and community.
- Strengthen and expand the pool of applicants of color.
- 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 maximize the benefits that flow from collaboration. Influence and expertise are shared, while energies and resources are focused. Progress during 2003 and action plans to achieve these goals in 2004 are summarized in the following subcommittee reports. Additionally, the Commission will continue to develop steps to accomplish each priority in a meaningful and efficient manner.

Complaints Process Subcommittee

Mission/ Focus:

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

Membership:

Leticia Medina (Chair)

Kal Farr, Executive Director, Utah Chiefs of Police Association

Sidney Groll, Director, Utah Peace officer Standards & Training

Keith Hamilton, Commission Co-Chair

Honorable Tyrone Medley, Third District Court

Reporting Period Activities:

This subcommittee has debated the role the Commission should have with respect to complaints received directly by the Commission regarding law enforcement or other state criminal justice agencies. This subcommittee arrived at the conclusion that it should not exercise oversight or appellate responsibilities in relation to complaints involving other agencies. The Commission's role would be better served as an alternate place where complaints could be submitted. Any complaints would then be forwarded to the appropriate agency with the understanding that the Commission could possibly offer to facilitate dialogue if a breakdown occurs in the process. It should be noted that the Commission does not wish to mediate individual cases but rather has focused on making systemic improvements to the complaints process.

The subcommittee has focused its energies on law enforcement for this reporting period. The task of coordinating efforts with hundreds of law enforcement agencies to develop a centralized process, coupled with the lack of resources, calls for the subcommittee to refocus its goals in addressing the systemic issue of complaints of racial and ethnic bias in the criminal and juvenile justice system. Initially, the plan for this group was to create a statewide centralized complaints process for all law enforcement entities. The purpose would not have been to restructure complaint handling processes but rather to create a mechanism for tracking complaints.

The current plan recognizes that, although all law enforcement entities have a complaints and appeals process, they may not have reduced the plan to writing in a manner that describes the process in detail and how it is initiated, and that is easily accessible to interested parties. This subcommittee recognized that its efforts would be best served by developing a user-friendly form to record complaints received by the Commission and to forward any such complaints to the appropriate agencies for action. In this manner, the Commission would also be able to facilitate dialogue between agencies and communities if a complaint were made known to the Commission.

Plans for 2004:

The Task Force recommendations suggest that all law enforcement agencies have a written description of the complaints process. To this end, the subcommittee is assessing the number of law enforcement agencies in Utah with a written complaint review processes in place and working with law enforcement agencies and POST council in assuring that most, if not all, law enforcement agencies will have written complaint process in the place by the end of 2004. To accomplish these goals, two measures are being undertaken:

- 1) An initial survey has been sent to every law enforcement agency in the State asking the two simple questions of:
 - a) Does your agency have a complaints process?
 - b) Is this complaints process in written form and available to citizens upon request?

2) Law enforcement leadership organizations are asking every law enforcement agency to have in place, a written document describing their respective complaints processes as a requirement for accreditation with state or national law enforcement accreditation boards.

These two measures are in keeping with the Task Force complaints recommendations.

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

Public Complaint Form- DRAFT

The Commission is currently reviewing its policy on receiving and facilitating complaints.

Reviews will be objective. Such reviews may include formal statements from all parties concerned, the gathering of all other information pertinent to the matter. Upon completion of a review, a written report will be submitted to the Commission and concerning agency. The Commission form for such complaints is as follows:

Name: _____ DOB: _____

Reviewed by Lt./Supervisor: _____

Reviewed by Capt./Bureau Chief: _____

Commissioner/Div. Director: _____

Notifications for Investigation Closure

Resolved with citizen/no further action deemed necessary

Citizen notified by: _____ Date: _____

Method: In person Telephone Letter Other _____

Task Force Member Notified of findings: _____ Date: _____

Method: In person Telephone Letter Other _____

Community Involvement

Mission/Focus:

Our goal is to devise a framework to improve communication processes between and among the Commission, the Advisory Council, and the community. We hope 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 Candidate, University of Utah

David J. Gomez, UCI Director, Utah State Department of Corrections

Aida Mattingly, Board of Directors, Utah Humanities Council
Larry Houston, L-3 Communications
Brent Johnson, General Counsel, Utah State Courts
Dan Maldonado, Deputy Director, Division of Youth Corrections
Haruko Moriyasu, Director, Asian Pacific American Studies
Joan Smith, Community Activist
Shirlee Weight, State Office of Education
Michael D. Zimmerman, Former State Supreme Court Justice and Attorney, Snell and Wilmer,

Reporting Period Activities:

The committee coordinated efforts to hold town meetings for and with local ethnic communities, public administrators and officers of the legal system. The purpose was to: (1) report the progress of the Task Force and the Commission (2) provide an opportunity for the communities to further discuss issues of experience and perceptions about racial and ethnic fairness, and (3) provide a forum for interaction between the community and members of the commission.

The Subcommittee Chair and Commission Coordinator met with the State Ethnic Advisory Council Directors to promote town meetings with their respective communities in July 2003. Hearings were arranged with the support of the directors and various community leaders that focused on groups by geography and ethnicity. Four town meetings were held during which key issues and problems were identified:

July 29, Ogden Latino/a Migrant Community, Ogden Weber Community

Key Issues/problems: Need for police officer cultural competency
Need for Latino/a administrators and police officers
Stronger Minority recruitment efforts

Sept 24, African American Community, Community At-Large, Calvary Baptist, Salt Lake City

Key Issues/Problems: Stronger Minority recruitment efforts
Need for police officers to treat all members of the public with respect
Need for police officers to recognize the special needs of the growing
Muslim community
Need for educational programs to educate the Muslim Community
of the legal system and civil rights

Nov. 6, Native American Community, Indian Walk-In-Center, Salt Lake City

Key Issues/Problems: Need for community education of legal terms and the law
Need for public administrators, attorneys, and law officers to learn Native
American Culture and Language

Nov. 12, Asian American Community, Cultural Celebration Center, West Valley City

Key Issues/Problems: Police officer cultural sensitivity – (to counter assumptions and stereotypes
such as all Asians are foreigners)
Need for more Asian American police and probations officers
Stronger Asian American recruitment in West Valley

Continuing existence of issues relating to language barriers; racial profiling; the need for police officer cultural competency were raised in each of the meetings regardless of location and ethnic representation. The meeting held at the Calvary Baptist Church also revealed an additional issue of the need to recognize and address the special needs of the growing Muslim community which was not raised in the original hearings of the Task force.

For a complete summary of our public hearings, please visit our website at:
<http://www.utcourts.gov/specproj/retaskforce/> .

In keeping with this subcommittee's goals to: "Develop strategic plans/goals 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 to the Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice system," the Commission participated in the following:

- Subcommittee Chair and Commission Director presented commission efforts and goals at the First Annual Conference on Latino/a Health and Safety Issues, August 18, 2003.
- Subcommittee members facilitated productive dialogue between a local ethnic community and local officers of the law on Dec 15, 2003.

Plans for 2004:

- The subcommittee will continue to facilitate town meetings for and with local ethnic communities, public administrators and officers of the legal system.
 - Pacific Islander Community, two meetings projected for March 2004
 - Latino/a Community, Park City, April 2004
 - African American Community, Ogden, 2004
- Identify/target key issues and problems that emerged during the 2003 Town Meetings and develop forums/platforms for discussion, including:
 - Language barriers
 - Lack of ethnic minority representation in the system
 - Racial profiling
 - Need for cultural sensitivity training
 - Minority recruitment
 - Educating the public on House Bill 101, Racial Profiling Bill

- Recognize local administrators and officers of the law for their efforts to promote equity and fairness in the judicial system.
- Refine strategic plans for working with the general public at large.
- Target community councils, chambers of commerce, private and public organizations to discuss the cost of crime.
Coordinate this work with the research committee
- Identify indigent defense issues.

The subcommittee for community involvement recognizes the following individuals and organizations for their support in planning the 2003 town meetings and/or ongoing commitment to equity and fairness in the legal system

Ogden Weber Community Partnership
 Francisco Lucio, Interpreter
 Tony Yapias, Director, Office of Hispanic Affairs
 Weber County Sheriff
 Celebration Center
 Diane Hamilton, Facilitator
 Office
 Reverend France Davis, Calvary Baptist Church
 Bonnie Dew, Director, Office of Black Affairs
 Donna Maldonado, KRCL Radio General Manager
 Indian Walk-In Center and Circle of Wellness
 Edith Mitko, Director, Office of Asian Affairs
 Rosa Hsu, Program Coordinator, Office of Asian Affairs

Kathy Elton, Facilitator
 Bev Klungervik, Facilitator
 Asian Association of Utah
 West Valley City Cultural
 West Valley City Police Department
 West Valley City Prosecutor's
 Office
 West Valley City Justice Court
 Salt Lake City Police Department
 Salt Lake City Prosecutor's Office
 Salt Lake City Justice Court

Outreach and Recruitment Subcommittee

Mission/ Focus:

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

Membership:

Daniel Becker (Chair), *Court Administrator, Utah State Courts*
 Honorable William Thorne, *Utah Court of Appeals*
 David Gomez, *UCI Director, Utah Department of Corrections*
 Sheriff Brad Slater, *Weber County Sheriffs Department*

Robert Flowers, *Commissioner, Utah Department of Public Safety*
Sidney Groll, *Director, Peace Officer Standards Training*

Reporting Period Activities:

The subcommittee has directed its work during this reporting period in two areas: 1) law enforcement recruitment strategies; and 2) conducting a focus group of newly employed juvenile probation officers and case managers. In addition, the committee reviewed and recommended to the Commission a model RFP format for considering cultural competency in awarding contracts, and is reviewing the agency reports on recruiting and hiring for the Commission's Annual Report.

Law Enforcement and Recruitment

In follow-up to information received from the focus group of law enforcement and corrections officers held last year, the subcommittee has undertaken an effort to put together a working group of law enforcement officers from across the state to assist the subcommittee in its efforts to attract minorities into the law enforcement profession. Sheriffs and Police Chiefs from across the state were contacted and requested to identify an officer to be a part of the working group. Twenty-one officers have been identified.

Juvenile Justice Employment Focus Group

During this reporting period the subcommittee began work on recruitment and employment of juvenile probation officers and case managers. A focus group consisting of four newly hired Juvenile Court Probation Officers and Youth Corrections Case Managers was conducted to gather information on their experiences with respect to the recruitment and hiring process as they personally experienced and to solicit their ideas on how these practices could be improved.

Plans for 2004:

Juvenile Justice Employment Focus Group

The subcommittee will meet to discuss what was learned from the focus group and develop a strategy for improving minority recruitment and hiring during the year.

Law Enforcement and Recruitment

The subcommittee met in January with the twenty-one officers to discuss how the workgroup will proceed, their task, and a timetable. It is anticipated that working with this group of officers will constitute a major part of the subcommittee's activity during the coming year. The major part of the subcommittee's focus will be to work with the group of officers from across the state to target minority students in an effort to attract minorities into law enforcement. The group will work with high school resource officers to provide mentoring support to individual students, that will include assisting students in preparing for tests.

The membership on this subcommittee is as follows, with potential for expansion in the future:

Norah Beech, *Officer, Murray City Police Department*
Craig Black, *Captain, West Valley City Police Department*
Reyna Cameron, *Detective, Mapleton Police Department*

Richard Chin, *Officer, Murray City Police Department*
Colonel Scott Duncan, *Superintendent, Utah Highway Patrol*
Julie Ellis, *Employment Specialist, Salt Lake City Police Department*
Mike Fowlks, *Captain, Division of Wildlife Resources*
Vince Garcia, *Sergeant, West Valley City Police Department*
David Holm, *Lieutenant, Cedar City Police Department*
Doug Lucero, *Lieutenant, Ogden City Police Department*
Johnny McCoy, *Chief, Smithfield Police Department*
Jerry Mora, *Lieutenant, Tooele County Sheriff*
Victor Quezada, *Sandy City Police Department*
Greg Ridler, *Captain, Logan Police Department*
John Salazar, *Sergeant, Midvale Police Department*
Chris Snyder, *Captain, South Salt Lake City Police Department*
Yolanda Stewart, *Sergeant, Orem Police Department*
Robert Tersigni, *Chief Deputy, Washington County Sheriff*
Craig Vargo, *Captain, Salt Lake City International Airport Police Department+*
L. Daniel Williams, *HR Analyst, Department of Corrections*
Bart Wilson, *Sergeant, Payson City Police Department*
Robert Yeman, *Captain, Davis County Sheriff*

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.

Members:

Edward McConkie (Chair), *Executive Director, Utah Commission on Criminal and Juvenile Justice (CCJJ)*

John Adams, *Past President, Utah State Bar*
Dr. Deidre Tyler, *Associate Professor, Salt Lake Community College*
Mike Haddon, *Research Director, CCJJ*
Russ Van Vleet, *Director, Criminal and Juvenile Justice Consortium*

Reporting Period Activities:

The Research Subcommittee tracked and assisted several key research projects, both finished and ongoing.

Racial Profiling

One of the most significant research projects to the Commission may very well be one of the most controversial and complicated ones as well. HB 101, Racial Profiling, required that the race and ethnicity of the driver stopped by law enforcement be logged as well as the race, ethnicity, and gender of the officer. The Commission on Criminal and Juvenile Justice (CCJJ) is tasked with collecting, evaluating, and reporting on the data.

The year 2003 demonstrated a number of obstacles that arose with the intent of the statewide research study. These included an unexpected low percentage of driver license applicants volunteering such information. As CCJJ researchers scrutinized similar studies in other jurisdictions, the dearth of data required in the new law was magnified when considering some of the primary goals of the research, i.e., demonstrate whether any empirical evidence exists of law enforcement using inappropriate racial profiling in traffic stops.

Nevertheless, CCJJ is committed to following the law as written, continuing to work with necessary agencies on data gathering, and, fortunately, recent reports show that the percentage of license applicants volunteering the necessary information is increasing. (Unfortunately, another trend shows the data on the actual purpose of the stop is decreasing.)

Perhaps more importantly, although the data for the traffic stop profiling study is limited, it is still somewhat of an historic effort in data gathering. As the pool of data increases over time, it is reasonable to expect that it can be used for research comparisons unrelated to the narrow question of law enforcement profiling but to broader and potentially more important racial and ethnic fairness issues in the justice systems. For example, having a traffic stop pool of racial and ethnic data collected specifically for the justice system and which permits tracking of cohorts of persons as they progress through the justice system may facilitate future studies ranging from looking for ethnically or racially disparate prosecutorial practices to similarly undesirable decisions made by judges in sentencing or in release decisions by the Board of Pardons and Parole. Thus, the data collected under HB 101 may well permit ongoing and thorough research that will yield a fuller understanding of the existence and extent of racial and ethnic bias throughout the justice system.

“What Works” In the System

A key envisioned cost-benefit analysis is finally finished and ready to analyze programs in the adult justice system. Under the direction of Professor Richard Fowles of the University of

Utah's Economic Department, this complicated model will provide policymakers vital information on the effectiveness of a given program or policy. This is directly in line with the Task Force recommendation of implementing management information systems that capture "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.

Race and Juvenile Sentencing In Utah

A partnership between the Utah Sentencing Commission and the Criminal and Juvenile Justice Research Consortium resulted in a pioneering study on juvenile sentencing and youthful offenders of color. In essence, the study concluded that juvenile offenders of color with similar offenses and delinquent backgrounds received a statistically significant amount of more severe dispositions than their white counterparts. As planned in the previous Commission report, this same study examined the relationship between guidelines and pre-sentence investigations and the actual judicial sentence itself.

While the findings are, indeed, significant, they also present a number of new questions that need to be further investigated. For example, further study is needed as to whether other non-racial reasons may account for the disparity such as socio-economic, language, or education factors.

Prosecutorial Conduct and Race

One of the most important places in the justice system where broad discretion is vested that can have profound impact is with the public prosecutors. Therefore, the subcommittee is considering new research directed at prosecutorial practices. There is little research available, given the elusive practice of plea negotiations and the difficulty in quantifying prosecutor conduct.

Important research is already underway involving the Salt Lake City Prosecutor's Office. Chief Prosecutor, Sim Gill, one of the newest member of the Commission, has not only welcomed the research and investigation, he has had the foresight to anticipate the need by collecting racial and ethnic data in anticipation of such research if and when resources became available.

Again, partnering with the Research Consortium, intriguing conclusions are trickling in about the charging, dismissal, and conviction rates of minority defendants in comparison to their population in the community. Given the disproportionate involvement of minorities in the justice system, some conclusions are not surprising, but others are very much so. For example, while the rate of Native American defendants being charged is disproportionately high, once charged, the dismissal rate for the same research group was even higher. In addition, the rate of charged Latino defendants was very low in comparison to their population in the community.

A prosecutorial area that needs continued research is the correlation between case loads and plea negotiations. This would include a distinction between defendants with public attorneys and those with private attorneys to determine if this is primarily a socioeconomic 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.

Plans for 2004:

The Subcommittee will continue to track and attempt to facilitate current race and ethnic fairness research which is already underway or needing to begin. It will continue its 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. (*See progress at a glance-research*). 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 Subcommittee will explain the problems related to the study and, if appropriate, make suggestions for how the study can be modified.

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.

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.

Members:

Anthony Smith (Chair), *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*

2003 Activities:

The scope and diverse nature of the issues did not allow this subcommittee to accomplish the plans set forth in the 2003 annual report.

Projected Activities for 2004:

The two areas of concern for the subcommittee were to: (1) research and collect data to determine the extent of the need and availability of indigent defense provisions and (2) improve community outreach and education. These priorities have been reassigned to the Research and Community Outreach subcommittees, respectively. The need for the Indigent Defense Subcommittee will be revisited as more information becomes available.

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-reports from agencies and representatives of the responsible parties and includes activity within the agency during this past year. 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 used as a fluid document that is continually updated and modified, establishing a pattern of progress toward racial and ethnic fairness.

In using the tables, reference should also be made to the reports of the respective subcommittee(s). The Complaints Process, Community Involvement, Outreach and Recruitment, and Research Subcommittees activities during the past year have focused on the many of the issues of concern to the various agencies. The reports are therefore important to consider in reading the following tables.

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
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.	Chiefs, Sheriffs, POST	<p>Efforts include job fairs, conferences, School Resource Officers, and POST Police Corps program.</p> <p>The recruitment subcommittee has formed an officer work group to create strategies for minority recruitment.</p>	Appendices

<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; The recruitment subcommittee is conducting focus groups and a law enforcement recruitment group has been formed.</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 Contact Committee (DMC) has prepared a model which has been endorsed by the Commission.</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>Racial diversity is one of many factors that are considered. See CCJJ response for current racial make-up.</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.</p>	<p>Appendices</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.	Courts	A resolution urging local governments to recognize the importance of cultural diversity and to put in place recruitment efforts which will result in diverse applicant pools will be included in the next justice court certification process. A blanket requirement for local governments to collect retention data is not currently possible.	Appendices
9. Judges should consider the importance of diversity on the bar and bench in the hiring of law clerks.	Courts	This is done informally only. Currently 13% of law clerks are minorities	Appendices
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.	DOC, BOP	DOC Human Resources Bureau reviewed the impact of officer testing and hiring processes on minority candidates. As a result DOC modified their physical pre-test from the Cooper test to the physical skills-based model. A study is underway to examine the success rates of minority applicants.	Appendices
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.	DYC, Courts	The DYC will insert language regarding cultural competency in its upcoming request for proposals release.	The DMC of the Utah Board of Juvenile Justice

Training

<i>Task Force Recommendation</i>	<i>Responsible Agencies</i>	<i>Status</i>	<i>Reference</i>
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<p>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.</p>	<p>POST</p>	<p>POST offers and encourages four and eight hour cultural competency trainings, but does not have the authority to mandate the curriculum.</p>	<p>Appendices</p>
<p>1b. Law enforcement diversity training should be non-repetitive and offer a variety of lesson plans throughout the year, such as:</p> <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? 	<p>POST</p>	<p>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.</p>	<p>Appendices</p>
<p>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.</p>	<p>POST, Chiefs, Sheriffs</p>	<p>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.</p>	<p>Appendices</p>
<p>2a. Upcoming annual conferences for chiefs and sheriffs should have diversity issues as a main focus.</p>	<p>Chiefs, Sheriffs</p>	<p>The Commission on Racial Fairness has been invited to the Annual Chiefs of Police Conference in early 2004. Diversity topics will be considered, as needed.</p>	<p>Appendices</p>
<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>This recommendation varies on an agency by agency basis. The law enforcement workgroup has considered bringing this issue to law enforcement agencies statewide.</p>	<p>Appendices</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.	Utah Supreme Court’s Board of Mandatory Continuing Legal Education	At this time, it is not required.	Appendices
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.	Bar	The Bar has sponsored 7 hours of CLE training this past year.	Appendices
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.	Bar, Courts, SLLDA, SWAP	A pamphlet has been created and will be distributed. A Commission subcommittee raised this issue with the Supreme Court Criminal Procedures Rules Committee. A rule will not be adopted at this time.	Appendices
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.	Courts	Interpreting and Cultural Competency issues will continue to be addressed at judges conferences, though not annually.	Appendices
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.	Courts, Adult Probation and Parole	Budgetary constraints dictate that bilingual psychological exams be discontinued until conducted properly.	Appendices
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.	Courts	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.	Appendices

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.	Courts	The topic of juror rights was addressed in this year's annual judicial conference. The Judicial Council's Committee on Improving the Jury Pool has conducted additional research.	Appendices
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.	Courts, BOPP	The Courts have not initiated a study yet. Questions of methodology arose by the contracted researchers and other research studies have taken current precedence. Research has been conducted on the relation between race and sentencing, as well as disproportionate minority confinement in juvenile court.	Appendices; CCJJ website
7. Pre-sentence investigators should receive training on the importance of adhering to sentencing guidelines and their affirmative duty to justify departures with specificity.	DOC	Due to budget cuts, Corrections no longer has independent contractors writing PSI's. Guideline training is on the Sentencing Commission agenda for 2004.	Appendices
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.	DOC, BOPP	Pre-Service Academy, In-Service Training, new civilian staff and management, 1 st Line Supervisors, DIO, UCI, and AP&P receive mandatory and regular training. The Board is working with POST to provide additional training for all Board employees.	Appendices

Interpreting

<i>Task Force Recommendation</i>	<i>Responsible Agencies</i>	<i>Status</i>	<i>Reference</i>
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<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 	<p>Chiefs, Sheriffs, POST</p>	<p>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. The Chiefs have secured low-cost access to statewide language line that is available to all agencies as needed.</p>	<p>Appendices</p>
<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. 	<p>Courts, Bar</p>	<p>Extensive information is available on the Courts website and the Bar in collaboration with the Multicultural Legal Center has prepared a pamphlet on interpreter rights and services.</p>	<p>Appendices</p>
<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. 	<p>Courts</p>	<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. * a program manager has been hired by the Legal Department whose duties include oversight of interpreter services. • budgetary constraints do not allow for certification in other languages at this time, but Court-Approved translators are available. However, the AOC did provide financial assistance to a Vietnamese interpreter to travel to a nearby state that does provide certification in that language. 	<p>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.	Courts	The Courts joined the National Center for State Courts' Interpreter Consortium; interpreters are required to attend Courts' cultural competency training; additionally a Language Line is available for immediate access to languages when needed.	Appendices
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.	Courts	Second-Language Stipends have been implemented into policy.	Appendices
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.	Courts	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.	Appendices
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).	Courts	These practices have been, and will continue to be, taught in orientations and judicial education conferences.	Appendices

Community Resources/Outreach

<i>Task Force Recommendation</i>	<i>Responsible Agencies</i>	<i>Status</i>	<i>Reference</i>
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<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. 	<p>No Commission Agency identified</p>	<p>School Resource Officers frequently teach law-related education classes to students that include a discussion on law enforcement careers.</p>	<p>State Office of Education</p>
<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>	<p>No Commission Agency identified</p>	<p>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.</p>	<p>State Office of Education</p>
<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>	<p>Courts</p>	<p>The Public Outreach Committee has conducted numerous events and community collaborations.</p> <p>As of this year, the Public Outreach committee has been elevated to a standing committee of the judicial council.</p>	<p>Appendices</p>

<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>Brown v. Board of Education anniversary activities; 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; internships available through the Courts and DOC, 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. UMBA representatives write strong letters in support of minority candidates and attend nominating commission meetings with candidates. This past year, SWAP supported a minority candidate from its organization who is now a judge.</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 scholarships but currently unable due to budgetary constraints. Mentoring programs are also available through UMBA.</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, and hosts the law schools' diversity job fairs. UMBA will be hosting the first 50 minorities in the Utah Bar celebration.</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>
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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. A Commission study is underway for a statewide determination of the percentage of agencies with written processes.	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 certify managers. POST can exercise independent authority to investigate and discipline. Salt Lake City and Weber County has a Citizen Review Board in place. A model based on national standards is underway.	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	This has been identified as an area for the Commission to examine.	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>90% of UHP cars are equipped with in-car video cameras</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 increased despite of decreases 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	All Pre-Sentence Investigation reports are reviewed by a Corrections supervisor.	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. Records of upward departures are collected in a searchable form .	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. Cultural competency training from DOC contract providers will not be required at this time.</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>Offices have experimented with extended hours and Saturday hours. However, utilization during these times have been low. Attempts are always made to accomodate client and parent schedules. Work Crews and special programs operate after hours in almost all Districts. The Assessment and Diversion Unit in 3rd District is open late on Monday and Tuesday until 7:30 p.m. Most other offices stay open until 6 p.m. Those offices that are located in courthouses are challenged by extending hours because of security reasons.</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. Additional improvement will be made pending the release of the new request for proposals.	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 number of complaints are so few that most cases are handled by the Chief or Sheriff. 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. Currently DPS is collecting this data and the information is being analyzed by CCJJ.</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. 	Bar	<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 estimated to be 4% of the total number of lawyers statewide.</p>	Appendices
<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>	SLLDA	<p>This information is being collected.</p>	Appendices
<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>	Courts	<p>The implementation of the racial profiling law will start this process by providing a database with race and ethnicity.</p> <p>Juvenile Court has since improved its collection rate from 72% to 91%.</p>	Appendices
<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>	Courts	<p>Judicial application revision includes this information.</p>	Appendices

<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,BOP, DOC, DYC SLLDA are currently implementing the reveiews. Bar, Chiefs, POST, 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>Race data will be imported from the driver license division records. Additional steps are being pursued.</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>
<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.</p>	<p>DOC</p>	<p>The O-Track database collects this information.</p>	<p>Appendices</p>
<p>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.</p>	<p>DYC, CCJJ</p>	<p>Information will be collected with the CARE system. CCJJ has indicated interest in this research.</p>	<p>Appendices</p>

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, initial analysis of racial profiling is currently underway. It will take five years for the data to be completely collected.	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 admission process is still under review .	Research Sub-Committee

<p>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.</p>	<p>Bar</p>	<p>Research was unable to determine reasons for inactive status. Currently working to agree on best response/strategy to this issue.</p>	<p>Research Sub-Committee</p>
<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. The research subcommittee will be addressing this research topic of indigent defense services.</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>The Salt Lake Prosecutors office, in conjunction with the research subcommittee, CCJJ and CJC is currently creating the methodology to examine this topic.</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 to expand the master jury list to increase representation.</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 examined this recommendation and determined it, unworkable.</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 examined this recommendation and determined it, unworkable.</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>The Sentencing Commission presented its study “Race and Juvenile Sentencing in Utah” to the Commission on REF.</p> <p>The study found that minority offenders “were more likely to receive aggravating factors and less likely to receive mitigating factors.”</p> <p>A study on the adult system is more difficult and the Sentencing Commission is waiting to see how the current study is received in Juvenile Court before embarking on the adult system project.</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, NYC</p>	<p>The data on family income will not be collected. The Juvenile Court found from responses that families considered this question intrusive. National research may be available.</p>	<p>Social Research Institute</p>
<p>18. The Juvenile Courts and the Division of Youth Corrections should conduct qualitative reviews involving youth who successfully exit the system.</p>	<p>Courts, NYC</p>	<p>Qualitative data is currently available. The new CARE system will collect more objective reviews.</p>	<p>Appendices</p>
<p>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.</p>	<p>Sentencing Commission</p>	<p>Results from the “Race and Juvenile Sentencing in Utah” study provided valuable information. This information will assist the Sentencing Commission in crafting appropriate factors.</p>	<p>Appendices</p>
<p>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.</p>	<p>DHS</p>	<p>DHS is working to collect and report more data on client race/ethnicity and service provided; service concerns/inconsistencies; more accurate socio-economic information.</p>	<p>Appendices</p>

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. Initial responses were given to the Commission director, Commission subcommittees and an Advisory Council subcommittee for feedback. A final response was then submitted by agencies. 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.

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

WORKFORCE: RECRUITING/HIRING

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

Implementation Status: **Completed and enacted into policy**

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 and Commission 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.*

Implementation Status: **Ongoing**

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.

At present, the Salt Lake Legal Defender Association is comprised of 89 members: Of those, 48 are female and 22 are minorities or consider themselves to be minorities. The office ratio is a higher ratio than represented in the state population for certain minorities. The office continues to attempt to reach out to the minority community and recruit members from those communities for employment opportunities.

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.*

Implementation Status: **Ongoing**

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. In the years 2001 through 2003, the office has continued to provide mandatory seminars on the issues of minority concerns.

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: **Ongoing**

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. One of the seminars scheduled for the seminar year of 2003/2004 is an update on immigration issues. Last month an article was sent to each attorney that updated federal issues on 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.*

Implementation Status: **Ongoing**

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. The Assistant Director and the Director continue to attend community issue forums in order to update and inform the public on this agency's duties and responsibilities to the community.

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: **Ongoing**

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.

The Assistant Director, at the direction of F. John Hill, has participated in forums at the University of Utah Law School, the University of Utah Medical School, and the Utah Bar Foundation. These presentations are designed to bring this agency's duties to light and foster input from the community.

ADMINISTRATION

- 9. 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: (Commission Recommendation)

The Salt Lake Legal Defender Association stands ready to assist, when called upon, in this endeavor. The Assistant Director has been put in charge of handling all complaint calls from clients and their families concerning their case results and presentations.

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

Implementation Status: Ongoing

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.*

Implementation Status: Completed and enacted into policy

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 naive 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.

Implementation Status: **Completed and enacted into policy**

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.*

Implementation Status: **Ongoing**

There has been an unexpected rise in the rate of felony referrals during the last quarter of 2002 resulting in a 537 case increase over 2001 levels, for a year ending total of 5,668 felony cases. This trend has continued through October of the current year producing an increase of 1,243 cases when compared with the same time period of the proceeding year. Assuming , optimistically, we do not receive any increases in the rate of referrals for the remainder of 2003 and all of 2004, this office still has the responsibility to request necessary staff additions and resources in our 2004 budget to address this remarkable increase in case referrals and provide representation for the projected 7,146 cases during the fiscal year 2004.

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

Implementation Status: **Ongoing**

Comparable pay is still only a goal. Prosecutors, as a whole, are slightly elevated in pay schedule in relation to this office. Unfortunately, no new increases in pay are planned for the future at this time.

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.*

Implementation Status: **Ongoing**

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

6. *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: **Process in place**

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. The rate of self reporting is approximately 65% at this time.

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.*

Implementation Status: **Process in place**

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.*

Implementation Status: **Process in place**

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

RESEARCH

10. *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: **Under Consideration**

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.*
9. *To monitor compliance with recommended standards.*
10. *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.*

Implementation Status: Study has been initiated. Funding needed from the Legislature

This office supports the intentions engendered by the proposal for the IDRC. The Salt Lake Legal Defender Association stands ready to participate in such a review and implementation when funding can be allocated by the State Legislature.

The research subcommittee, in conjunction with CCJJ, has begun research on the quality of indigent defense statewide, as suggested in this recommendation. This is the initial step to addressing this recommendation.

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).*

Implementation Status: Funding needed

To the extent that this office can assist in this goal, we are doing so. The Salt Lake Legal Defender Association is funded by Salt Lake County, and as such, is limited in its scope of authority to that county. Although this office supports the intention of this proposal, it has no funding to activate such a state wide office.

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.*

Implementation Status: **Ongoing**

To the extent that this goal does not conflict with other ethical duties this office has, we are attempting to assist in its achievement. The Attorney/Client privilege limits our assistance in this area and will continue to do so.

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 following project reflects the actions of the Salt Lake City Prosecutor's Office, as a member of the SWAP.

One of the fundamental findings of the Task Force on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System was that there is perception by some in the community that minorities are systematically discriminated against in terms of the outcomes achieved as they proceed through the criminal justice system. This perception is viewed as impacting both aspects of plea resolutions not offered and the prosecution in general of the minority communities. To address this issue the Task Force recommended in its research section that: "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 is equally clear that no amount of analysis will yield a formula by which to determine the motivation of one who may be acting out of a bigoted or racist agenda. Thus, the key to any institutional integrity must be derived from the checks and balances within any system and the outcomes, if any, that can be reviewed. The integrity of any institutional framework is achieved by its procedural transparency. Individual transgressions are neither predictable nor analyzable, however, they must be addressed if they can be identified and must not be tolerated.

The dialogue of openness has not always been sustained by the active participation of the many institutions involved in the criminal justice system. The Task Force originally, and the Commission now, has been effective in creating a dialogue but it has not quite yet delivered the institutional self-examination and disclosure of the kind that most had hoped for as the result of the Task Forces findings. In one respect, this is not a valid criticism because the Commission is, in reality, a facilitator of issues not an agency authorized and funded, with a mandate to investigate and hold accountable for sanctions public institutions. The institutional reluctance of some may be the result of both a fear of how they are approached and that there is no obligation to respond to the Commission other than in an apathetic tolerance. It is important to recognize that absent any specific complaint the approach to these institutions cannot be driven by an accusatory agenda. The goal of the Commission is to facilitate open dialogue and thus it must engage institutions with openness and, where met with willingness, support their institutional efforts. Finally, where possible, it is incumbent upon public institutions to take the initiative and open their doors for analysis not solely for the sake of the critics but for the sake of the

communities that they serve so long as these communities continue to mistrust or perceive that there is institutional bias. In this effort, the Salt Lake City Prosecutor's office in conjunction with the Commission and the CJC has begun an institutional analysis to address the perception of bias and prejudice in the prosecutorial process.

The Project

The Salt Lake City Prosecutor's office began an internal audit to examine any bias and prejudice within its prosecutorial mission in serving the citizens of Salt Lake City. This project was started at the end of 2003 and will be completed in 2004.

City Prosecutor's Office Workforce Composition

The Salt Lake City Prosecutor's Office is the largest municipal prosecution entity in the State of Utah. It has total of thirteen attorneys and nine full-time support staff. The workforce composition of all attorneys is as follows: Approximately 46% of the attorneys are female and 53% are male. Approximately 23% of the attorneys are minority attorneys. The office has a total of 5 attorneys on its management team, including the City Prosecutor, and three of five are minority attorneys. At the management team level minorities represent 60% of the team. Furthermore, 60% are male and 40% are female attorneys respectively. The City Prosecutor, as the head of the office, is a member of the minority bar.

The Prosecutor Office

The calendar year 2003 produced over some 21,000 criminal complaints. The creation of the Salt Lake City Justice Court increased the number of law enforcement agencies that feed into this court from one to six major law enforcement agencies with various others overlapping when violations occur within the territorial boundaries of Salt Lake City. The office serves and prosecutes for these various agencies at both 3rd District Court as well as the Salt Lake City Justice Court. The office handles cases ranging from infractions to Class A misdemeanors. The City Prosecutor's office therefore plays a significant role in the community's perception of law enforcement along with others. The City Prosecutor's office, as a public institution, thus has an obligation to demonstrate that there is a basis for confidence in the fairness of its prosecutions. The decision to serve as an institutional example is motivated by the following working rules that it adopted:

The office, as a public Institution, has an obligation to self examine any alleged bias or prejudice in its functions both for itself (internally) and for the role it plays (externally with other agencies) in the larger context of the criminal justice system.

The discovery of any questionable practices would serve as an Institutional Win to fulfill its obligations as a public institution and in proactively seeking to remedy and perceived or actual bias.

The non existence of any questionable practices serves as an Institutional Win as a demonstration that there are no patterns of any bias or prejudice.

The only loss in this equation would result from the failure to do anything as a public institution. Perceptions must be addressed even if not true, and if true, the necessity is self evident.

Preliminary Study Findings

The Criminal and Juvenile Justice Consortium at the request of Simarjit Gill, Salt Lake City Prosecutor, began an analysis of cases processed through the city prosecutor's office in 2003. Data was exported from the SLC Prosecutor's Office Prosecutor Dialogue database and aggregated and analyzed in SPSS 12.0 Furthermore, the relative rate index (RRI) disproportionate minority contact model used by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to track movement of minority youth through the juvenile justice system was modified to examine the city prosecutor's data. Preliminary results indicate *no clear patterns of bias or prejudice* in the SLC Prosecutor's office, but do highlight areas requiring further examination to fully understand the relationships between race, ethnicity, and the processes of the justice system.

The Salt Lake City Prosecutor's office will continue to examine the data and will present a final report to the Commission before the end of 2004 calendar year.

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 enacted into policy**

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: **Ongoing**

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. The Board continues to encourage the recruitment of minorities at job fairs, higher education seminars, community meetings, by one on one contact, and through its intern program.

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: **Ongoing**

The Board consists of five sitting members. The Board believes it has an excellent track record in hiring and recruiting minorities. Mr. Keith Hamilton, an African American member of the Board, has resigned and has been replaced with Mr. Jesse Gallegos, a Hispanic male. There have been no other appointments to the Board or staff since last year's report.

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: **Ongoing**

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: **Ongoing**

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. Multicultural competency training is important to the Board and efforts are being made to seek additional training for Board members and staff.

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.

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. The Board-produced Victim's Handbook has been revised to give the victim notice of his or her right to an interpreter. Information on interpretation services for inmates, parolees and victims has also been placed on the Board's web site <http://bop.utah.gov>.

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

Implementation Status: **Ongoing**

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: **Ongoing**

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. 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.

The Board recommends that the names and phone numbers of Ron McCloud, hearing officer and African American, and Duane Kaneko, hearing officer and Asian American, be included on the Board's web site so minorities can contact them with inquiries regarding employment and Board processes. The Board continues to involve itself in partnerships wherever possible to further community needs.

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: **(Commission Recommendation)**

In reaching a decision, Board members consider the impact of offenses against individual victims as well as against targeted groups. The Board continues to actively participate in the political process regarding hate crimes.

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

Implementation Status: **Completed in part**

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 attached).

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: **Ongoing**

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: **Process in place**

The Board recommends that the Presentence Investigator note the race and ethnicity of crime victims and include this information in the report. As in all cases, the individual concerned will have the choice whether or not this information is included in the report. It is also recommend

that the Victim Coordinator track the race and ethnicity of crime victims and provide an annual report of his findings to the Board.

- 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: **Process in place**

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. The Chairman reports that exiting employees are not reporting inequities in the work place.

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: **(Department of Corrections Recommendation)**

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 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: **Completed and ongoing**

Most police departments in the state have met this requirement. Those departments that have not established and maintained Equal Employment Opportunity Plans are small agencies that do not have a human resources person in the city to deal with it. All agencies state they are an “Equal Opportunity Employer” but as far as plans to further this objective depend on resources within the city.

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: **Ongoing**

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. This objective is also related to the size of the department and the available pool of minorities to choose from. For a Chief to allocate resources to this issue will require the Chief to pull someone from another duty to recruit minorities. It is a matter of resources. If a grant could be obtained that would specifically pay for recruitment efforts, many Chiefs would be willing to participate. All Chiefs would love to have qualified minorities on the department but getting qualified minorities is a resource challenge.

The Chiefs of Police, Sheriff’s and POST realize the importance of this objective and have been working with the Commission to form a minority officer recruitment group. This group has been charged with the role of creating practical models for law enforcement agencies to utilize in improving the pool of qualified minority applicants.

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: **(POST recommendation)**

There is not a standard evaluation instrument used by all police departments. This objective should be handled by POST or other governmental agencies that have the time and resources to develop an instrument that could be administered at the time of hiring and/or basic training. 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: **Completed in part and ongoing**

The Association spent considerable time and effort in developing the “Bias Based Policing” training module. As it was taught around the state it was well accepted and good dialogue was accomplished at the training. However, the issue of prioritization was again brought forward. The Law Enforcement Officer in this state feel they do all they can and should do given the resources they have, to deal with the minority population in their community. To do more than what is being done would require the issue of race relations to be a greater problem than it is. Cultural training is one of the many training issues police have to deal with and it is not a high priority.

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

Implementation Status: **Low Priority**

This subject is not on the agenda for either conference and unless something changes, it is unlikely it will. The issue of “Race Relations” is not perceived as a problem big enough to merit time on the agenda. However, the Chair of the Commission on Racial and Ethnic Fairness will be

given time in the March 2004 to present the Chief of Police with the Commission annual report and discuss cooperation.

- 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: **Low Priority**

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. Again, as a general rule, it is not a high enough priority to merit the requirement of such training.

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: **Completed in part and ongoing**

The Chiefs Association has secured 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. The service is being used as needed.

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: **Ongoing**

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. The Commission recruitment subcommittee, in conjunction with law enforcement has been examining ways provide better outreach to junior high and high school students. Specific models will be implemented within the coming year and available in our next report

- 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: **Ongoing**

Ogden Police Department and some other large departments have an employee that works with the minority community, religious and civic groups to facilitate better understanding between the police and the community. This person does not regularly coordinate with other criminal and juvenile justice entities. However, as stated above, statewide collaboration is underway with the formation of the new law enforcement work group.

COMPLAINT PROCESSES

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

Implementation Status: **Completed and further efforts in progress**

This issue was discussed in the Complaints Subcommittee and the recommendation was that the person making the complaint to the commission be encouraged to file a formal complaint with the Law Enforcement Agency. If a department does not have a complaint process, a member of the commission will work with the minority to help them make their concern known to the Law Enforcement Agency. The commission could develop a complaint form that would be available to the minority to fill out if the Law Enforcement Agency did not have a form. This form would be routed to the agency for response. If the complainant is not satisfied with the Chiefs response the complainant would be assisted by the commission, if necessary, to the natural appellate process in the agency which in most cases is the City/County administrator over the agency.

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: **(Commission Recommendation)**

The hate crime legislation has continually been defeated by the Utah State Legislature. All police departments have a complaint process where hate crimes can be reported, investigated and prosecuted.

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: **Ongoing**

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: **Completed and enacted into policy**

The Utah Chiefs of Police Association has had a model “Racial Profiling Policy” on its web site, www.utahchiefs.org over a year. All 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: **High priority and ongoing**

Video cameras are a high priority for all police departments. Video cameras in the cars are continually being budgeted by Police Departments and are installed as the budget for them is approved. This tool is recognized by Law Enforcement as a valuable asset to the Law Enforcement Officer.

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: **(Commission on Criminal and Juvenile Justice Recommendation)**

This issues is being handled by the Commission on Criminal and Juvenile Justice as required by law. Very few law enforcement agencies keep their own statistics.

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: **Ongoing**

The Salt Lake City Police Department has recently created a Civilian Review Board. Information on this Board can be accessed at: <http://www.ci.slc.ut.us/civilianreview/>. However, this is not the standard as 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.

8. *Law enforcement agencies should keep not only accurate, but readily compilable, accessible and review able 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: **In Progress and ongoing**

H.B. 101 "Racial Profiling" will go a long way to accomplish this goal. The "Racial Profiling Bill" does provide for some tracking of the criminal justice system's racial profiling propensities. Currently the State Department of Public Safety is collecting that data and forwarding it the Commission on Criminal and Juvenile Justice.

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.

Implementation Status: Not Required but process in place

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 14 full time and 2 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 has a representative from the ethnic community appointed by the Governor in addition to its subcommittees having at least one representative from ethnic communities. The Utah Substance Abuse and Anti-Violence Coordinating Council has a representative from the Office of Minority Affairs in addition to representatives from two ethnic minorities on one of its subcommittees. The Utah Board of Juvenile Justice (UBJJ) has nine members that represent various ethnic minority communities, all appointed by the Governor. Additionally, UBJJ has six representatives from ethnic minority communities on its Disproportionate Minority Confinement subcommittee.

CCJJ also provides training for units of local government and community-based agencies on EEOP requirements. Training was provided October 2, 2003 for all subgrantees where copies of the Civil Rights Seven-Step Guide were provided.

CCJJ continues to have a role in monitoring subgrantees to ensure they have EEOPs if the number of employees fall within the federal criteria. Subgrantees are also required to provide current EEOPs during monitoring visits if the plan on file at CCJJ has expired. On occasion, CCJJ has temporarily suspended grant reimbursements until EEOPs are received.

Recently the Office of Civil Rights informed CCJJ that its role will include monitoring subgrantees for any adverse findings of discrimination on the grounds of race, color, national origin, age, sex, religion or disability. Letters have been prepared and will be mailed to all subgrantees requesting this information be provided for the prior three years. Subgrantees will have until January 15, 2004 to respond with the appropriate documentation. Subgrantees failing to respond will have reimbursement payments suspended pending receipt of the documentation. Monitoring checklists have also been amended to include a question regarding any adverse findings.

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: Ongoing

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 Commission for Racial and Ethnic Fairness in the Legal System. Unfortunately, due to budget constraints, there have been no vacancies available at CCJJ (despite the constantly increasing work load). Therefore, we have not had occasion, during the previous year, to utilize, let alone evaluate, the above stated practices.

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

Implementation Status: Ongoing

Under Utah law, the governor appoints all 7 members of each judicial nominating commission, however some appointments must come from a list from the Utah State Bar. There are also statutory limitations on how many members may be of one political party. Racial diversity of these commissions and, specifically, the race or ethnicity of a particular nominee is one of several considerations.

The current racial make-up of the varying judicial nominating commissions are as follows:

- Appellate Court Nominating Commission - no commission formed at this time;
- First District - no commission formed at this time;
- Second District - one member from an ethnic background;
- Third District - two members from an ethnic background;
- Fourth District - one member from an ethnic background;
- Fifth District - no members from an ethnic background;
- Sixth District - no member from an ethnic background;
- Seventh District - no commission formed at this time;
- Eighth District - no commission formed at this time.

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.*

Implementation Status: Informally considered

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, she is personally sensitive and approving of the benefits of racial and ethnic diversity.

The governor does not establish explicit guidelines regarding her choice from among judicial candidates because her 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.*

Implementation Status: Ongoing

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.

CCJJ continues to provide grant funding for programs that expose students to the functions of the justice system. This year, CCJJ provided funding to Logan City Police to implement a law enforcement careers course at the Bridgerland Technology School. High school students interested in a career in law enforcement can enroll in this class taught by local law enforcement officers and other professionals in the field.

For the last several years CCJJ staff have also served as judges for the state's annual mock court competition. In this capacity, staff have given participating middle school and high school students insights into potential careers in the criminal justice field.

CCJJ is also currently supporting the Utah School Resource Officers Association. Two years ago, CCJJ formed the organization and then transferred responsibility for maintaining it to the Utah Council for Crime Prevention. The association provides a venue for information exchange and training on the role of law enforcement officers in our schools. CCJJ contributes grant funding to support annual training activities for these officers.

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.

Implementation Status: Ongoing

Although this recommendation is not directed at CCJJ, the Director of the Utah Substance Abuse and Anti-Violence Coordinating Council (USAAV) 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. USAAV members are also involved in the actual writing of the curriculum, including components on diversity.

CCJJ continues to maintain membership on the Prevention Dimension Steering Committee and participates in developing the agenda for annual teacher training on the curriculum.

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: High Priority for the Utah Board of Juvenile Justice

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.

CCJJ continues to fund programs that promote a better understanding of Utah's justice system. In the last several years, CCJJ's Utah Board of Juvenile Justice has identified the over-representation of minority youth in our juvenile justice system as their top priority issue. As a result, the Board has funded multiple programs that target the ethnic minority communities. These programs include prevention and intervention services, advocacy services, and court services.

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: **Ongoing**

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.

Implementation Status: **(Commission Recommendation)**

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.

Implementation Status: **(Local Government Recommendation)**

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.

Implementation Status: **Process in place**

CCJJ employees are encouraged to discuss matters of racial and ethnic fairness in the workplace with their supervisor anytime such issues arise. No CCJJ employees have left during the past year so any exit interview opportunity has not yet risen.

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: In Progress

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 third year, involves the administration of two survey instruments for all program clients. These instruments measure risk and protective factors as well as psychological distress of the subjects. The use of these survey tools is widespread and allows for comparative analysis of youth participating in sponsored projects with youth from the general population within Utah and other similar states. The 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 (CJJC) 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.

Both the CJJC and the cost/benefits tool are moving along nicely. A specific “Blueprint” of the CJJC is being considered to more formalize an already productive partnership which has produced numerous research projects including several specifically for the race & ethnic fairness effort. Also, Prof. Fowles’ cost/benefits tool is now ready to begin detailed and complicated analyses specific to adult programs in order to provide critical information to policymakers as to whether a particular program is justifying its funding.

- 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 City Police Department, St. George Police \ Department), and should publish their findings.***

Implementation Status: In Progress

The Commission on Criminal & Juvenile Justice is following state law as enacted by HB 101S1 Racial Profiling (Rep. Bourdeaux). This law requires the collection of limited data elements, i.e. the race/ethnicity of the stopped driver and the same information plus the gender of the law enforcement officer. It also requires CCJJ to report back concerning the adequacy of the data elements and possibly, whether inappropriate law enforcement profiling has occurred. Given the complexities of such an analysis combined with the very limited data available, this process is proving to be quite slow and involves problematic methodologies.

However, the gradual collection of race and ethnic data via the new law may provide an invaluable

long term research by-product: accumulating a critically needed database pool for any number of future studies ranging from examining the front end of the system to the back.

**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 AND A WORK IN PROCESS**

- The Utah Corrections Diversity Coordinator position was abolished and reclassified. A Human Resource Analyst was assigned to direct the Department's minority recruitment efforts.
- Corrections is emphasizing recruiting at ethnic events and festivals to make contact with the minority community.
 - 1) The HR Analyst has met and continues to maintain positive relationships with the Directors and staffs of the Governor's Offices of Ethnic Affairs. Their agency was informed of the Department's desire to seek out qualified individuals to fill desirable positions. It was called to their attention the need for their organization to refer eligible employment candidates to meet our staffing needs.
 - 2) The HR Analyst proactively recruits from Minority Social Organizations, Ethnic Studies Programs, Associations and Women's Programs at state colleges/universities, Government Job Training Programs, Utah Workforce Services, local Houses of Worship and Religious Centers and through promotions with local radio and media outlets.
 - 3) The HR Analyst has a number of Brigham Young University graduate students working on specific projects involving recruitment issues of ethnic minorities and women. They are examining our processes of recruitment, gathering statistical information to compare our employee population to Utah's ethnic/gender available workforce. They will make recommendations for improvement in the Department's recruitment and retention efforts through the development of a tracking program and a meaningful exit interview. The deadline to complete their assignment is December 17, 2003.
 - 4) The HR Analyst has received an approval from three Division Directors to purchase a Job Fair Recruitment exhibit, which will feature graphic images of a diverse workforce for the purpose of improving recruitment efforts.
 - 5) The HR Analyst is involved in teaching Cultural Diversity to Corrections Pre-Service

Academy and to county correctional officers throughout the state of Utah, thus projecting a positive image for the Department.

6) The HR Analyst has developed a recruitment brochure with images of a diverse workforce.

7) The HR Analyst has and will attend ethnic, community annual events and cultural celebrations to recruit for and promote the Department's desire to attract people of color to its employment ranks.

The Department of Corrections is represented by a member on a subcommittee of the Task Force on Racial and Ethnic Fairness. The subcommittee has met with various ethnic/minority representatives from a variety of state agencies and from the community pertaining to improving minority recruitment efforts. The subcommittee is in the process of implementing and reaffirming their recommendations. They do not have a projected time table for focusing on Corrections recruitment, as it is a continuing and developing process.

- 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

A review of the correctional officer testing and hiring process led to a modification of the physical portion of the Correctional Officer pre-test. The test now relies on a physical skills-based model which tests the applicant's ability to perform certain specific job tasks. This test replaced the Cooper test formerly used as part of the Correctional Officer testing process. Since its inception, the pass rate for applicants taking the new skills-based test has been approximately 100% including women and ethnic minority applicants. Most recently, UDC has modified its recruitment policy to allow for public recruitment of AP&P officers. This change allows UDC hiring officials to consider qualified public applicants with prior law enforcement experience and/or education, including women and ethnic minorities

In last year's report a problem with a higher rejection of ethnic minority than white applicants was identified. Under the direction of our Human Resources Bureau, a task force was formed to review the process and see what can be done to improve the approval rate. This responsibility has been assigned to the HR bureau's minority recruitment specialist and new Correctional Officer recruitment specialist. Currently, the ethnic minority specialist is coordinating efforts with separate graduate student groups to acquire specific data on the success/failure rates of minority vs. non-minority applicants. The report from these groups is anticipated to be received in the Spring of 2004.

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**

The PSI process changed at the beginning of July, 2003, because of budget cuts. Corrections no longer has independent contractors writing PSI's. They are now done only by Corrections' staff. Guideline training is an on-going issue and part of the Sentencing Commission agenda for 2004.

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 297 participants in ten sessions during the past year.
 - This curriculum is also being used for Division of Institutional Operations (DIO), Adult Probation & Parole (AP&P), and Utah Correctional Industries (UCI) staff in their training meetings.
 - Two hours of Cultural Competency/Unlawful Harassment Training was offered in our annual In-Service Training curriculum.
 - New civilian staff receive two hours of cultural competency training.
 - 1st Line Supervisors receive four hours of Cultural Competency/Unlawful Harassment Training.
 - Four hours of Cultural Competency are being added to the new Management In-Service Training for 2004.

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. It is very rare for an inmate

to be sentenced to prison who speaks a language not spoken by any staff member. In these cases, efforts are made to find translators or transfer the inmate to facilities where interpreters are available. It is difficult to anticipate these situations since Corrections does not know who will commit a crime and be sentenced to prison until after it happens.

- Correctional officers receive 16 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.
- Corrections' Public Awareness program is conducted between September and May, every Wednesday during the day, and the first Thursday of the month during the evenings. Special events may also be planned. Corrections' Ethnic Minority Resource Specialists manage the program and an inmate panel of both white and minority offenders presents it.

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. Corrections' Ethnic Minority Resource Officers are in place at each facility and are assisting inmates when needed for all issues—not only complaints. In our prisons, all inmates have access to the inmate grievance system where unresolved complaints can be addressed.
- 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: **(COMMISSION RECOMMENDATION)**

This recommendation should be addressed by the Commission, as a whole. Corrections main contribution in this effort is through detection and control of hate crimes committed by prison inmates against other inmates.

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.
 - Corrections has not conducted a formal review of all PSI's to ensure that reports are being written from a race-neutral perspective. However, every report is reviewed by a Corrections supervisor. These reports are read by judges, prosecutors, and defense attorneys. No reports of bias have been received by Corrections from any of these groups.
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**

As mentioned earlier, the PSI process has changed recently. We no longer contract with outside PSI writers—all PSI’s are now written by Corrections staff. All our staff have received cultural competency training. Reports on compliance with guidelines have been made during the last year to the Sentencing Commission which include both upward and downward departures.

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. Currently, due to resources, Corrections does not plan to provide or require training for all contract providers.
- Measuring the practitioner’s basic understanding of 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 working with students from BYU on developing a new exit interview which should be completed soon.
 - We conducted an extensive survey of staff on many issues this year. The results have not been published yet but we anticipate having them soon.
- 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 have developed a comprehensive database on programming and program participation. We hope to be able to provide meaningful outcome information within the next year.

- Our new programming initiatives include greater integration of families and community organizations with emphasis on faith-based groups.

**Utah Department of Public Safety- Utah Highway Patrol
Response to Recommendations of
Task Force on Racial and Ethnic Fairness**

Criminal Interdiction in Utah

Five years ago and for many years before that, the Utah Highway Patrol was anxiously engaged in criminal interdiction on our highways. Troopers were out there, being observant, looking for contraband, and were very successful in their efforts. Was the program broke or malfunctioning? No. The difference between then and now was the fact that we were not as widely trained in the area of interdiction as we are now. It was a relatively small group of troopers who were developed in this area, and who became widely successful. Since that time, and over the past few years, our criminal interdiction training has been more readily available. There has been a renewed emphasis in this area of police work, and the Utah Highway Patrol has recognized the importance of interdiction enforcement, and the necessity to organize our enforcement efforts.

THE UHP'S RESPONSE TO RACIAL PROFILING CONCERNS

Approximately three years ago there was a concern across the nation about racial profiling. Utah was not in the spotlight for racial profiling at the time, but with public attention turned toward this issue, Commissioner Flowers felt it was an appropriate time to assess the way we conduct ourselves in the area of interdiction. If we were to have a proactive and robust program, it only made sense to get out in front of these issues and be prepared for any possible scrutiny.

Commissioner Flowers appointed Lt. Swain to develop our Department Criminal Interdiction Team. The original team had ten members. There was a commander, three investigators, and six patrol officers. Three of the patrol officers were k-9 handlers. One of those handlers was appointed to be the department k-9 program coordinator, tasked to facilitate the training and development of all ten of the departments dogs and handlers.

Solid training has been an important component of the current interdiction team. Through proper training, the team has successfully eliminated the possibility of racial profiling and other pitfalls associated with constitutional issues. Training and accountability are extremely important, and it was generally felt that one without the other would result in a failed program.

SIGNIFICANT INCREASE IN INTERDICTION CASES

As a commander, Lt. Swain developed relationships with the Attorney General's Office, the US Attorney's Office, DEA, State Court Prosecutors and other agencies. All of these relationships needed to be improved in order for our interdiction cases to flow smoothly. In 2002, the Utah Department of Public Safety made 85 significant seizures. In 2003, we are on track to exceed 90 significant seizures. Each of these cases are mutually investigated by the Drug Enforcement Agency (DEA) and the State Bureau of Investigation (SBI). The interdiction intelligence is submitted to the Rocky Mountain Highway Patrol Network by Lt. Swain, who is a board member of that organization. The information is then disseminated to scores of intelligence networks. Communication and networking is the key to success on a national basis.

FACTORS NEEDED FOR A SUCCESSFUL PROGRAM

At least three things are critical to a successful drug interdiction program. First of all, there must be support from the department's administrators. There are many forces working against "drug interdictors" and they must have administrative support. Second, the department must insist that proper search and seizure principles are adhered to, according to the US Constitution and related case law. This second issue can be maintained through ongoing training and monitoring of troopers. Another important variable is the selection of key personnel for the unit. Trooper's who are passionate hard workers and who are willing to work as a team, are an essential ingredient for a successful interdiction program. A third factor would be to maintain solid partnerships in the community. Through outreach efforts focused on various groups in the community, our organization becomes transparent, less threatening, and more approachable.

CRIMINAL INTERDICTION IS FLUID AND EVER-CHANGING

Indeed there are many other elements necessary for an interdiction program to succeed long term. What was appropriate five years ago may not be appropriate today. How we do business in the realm of interdiction may change drastically as case law is established. We need / and are doing the following:

Sound Policy and Procedure: Five years ago we had policy that was appropriate for that time. We are constantly looking for ways to "tighten" the way we do business. Consent search policy is continually being revisited to ensure that the rights of our citizens are maintained. Current policy addresses the review of citizen complaints related to criminal interdiction issues. The department reviews the proper handling of evidence and makes a regular evaluation and inspection of evidence facilities. Recently, a department K-9 policy was sent up the chain of command for review and is expected to be implemented at any time.

Ongoing Criminal Interdiction Training: Training is extremely important in order to stay abreast of the ever-changing elements of interdiction work. Those involved in interdiction receive this, and in-turn train others in the department. Regular training has increased the number and quality of interdiction arrests statewide, and has helped to keep troopers up to date on case-law.

In 2002, the department sent forty troopers to Desert Snow, which is a comprehensive four-day advanced highway drug interdiction school. In 2003, we sent twenty troopers. We are currently slotted to send twenty more troopers to this training in 2004. On each interdiction stop, the interdiction coordinator Sergeant Jeff Chugg, creates a detailed report on the traffic stop and how business was conducted. Details on the reasonable suspicion and why the officer did what he did and why it will survive legal scrutiny is also included.

During the revitalization of the interdiction program, all members participated in traffic and equipment training to insure legal stops, commercial vehicle training to develop an understanding of semi tractor-trailer units, racial sensitivity, interview and interrogation training, search and seizure, and finally department policy training.

Involvement in Professional Organizations: It has proved critical for our people to participate in law enforcement organizations which discuss interdiction on a statewide and national basis. The sharing of ideas with outside agencies promotes teamwork and cooperation.

Statistical Information: We monitor efforts through accurate record keeping. We keep records of stops which include ethnicity and probable cause for the stop etc. Quality is ensured via a proactive effort to “police” our own conduct and the method in which we do business.

Technology: We have made great strides in becoming technologically advanced. The importance of this is simple; as of this year we now have computers in every patrol car. This allows us to conduct a computer analysis of our interdiction program at any time. The data includes reasons for stops, ethnicity etc.

The above points illustrate the importance of obtaining and then disseminating ongoing and accurate info in the area of interdiction. The results are two-fold, well trained troopers and a public which is satisfied that the constitutional rights of all are upheld. What does this mean as far as issues involving racial fairness? Greater professionalism directly translates into standardization of procedures. This kind of collaboration limits room for procedural error and thus reduces the chance of minority mistreatment.

COMPLAINT PROCESS

The complaint process for the Utah Highway Patrol has remained static and very functional for quite some time. The department has a very effective method for receiving complaints, which is upheld by policy and procedure. Any citizen has an opportunity to voice concerns over the way an incident was handled, and they can be assured that those concerns will be addressed thoroughly and in a timely manner.

The immediate supervisor conducts an investigation and initial review of the incident reports and in-car video recording. Timely contact is made with the complaining party, after which findings and recommendations are then documented and sent up the chain of command for further review. Utah Highway Patrol supervisors will then make a determination as to the seriousness of the situation, and whether or not the trooper is in error. The documentation of the investigation is then filed at internal affairs. A recent recommendation, which may be included in the complaint process in the future, could assist the organization when an incident is identified as one that cannot clearly be resolved. The administrators may at some point, at the discretion of the superintendent, develop a Citizen Review Board to hear the facts of the incident and either support the integrity of the investigation or direct the investigation in a more appropriate direction.

INTERNAL AFFAIRS AND TRACKING RACIAL PROFILING

All complaints having to do with race or racial profiling are sent to DPS Internal Affairs. Internal Affairs has a computerized tracking system which enables them to track cases by name, date, case number, and allegation. A search can also be made utilizing the officers name. This gives internal affairs the ability to conduct spot-checks on employees and make an evaluation regarding patterns of misbehavior. As of 2003, all records whether video or written reports will be kept indefinitely. Prior to that, records were kept for seven years and then destroyed. All information is secure and accessed only by DPS Internal Affairs.

In 2001 the tracking system was updated to include racial profiling, race other (eg. racial comments etc.), false complaints against officers, and employee recognition.

RACIAL COMPLAINT STATISTICS

For the last three years the department has averaged only 1.33 cases involving any race related complaint. Data was not kept prior to that time period.

2001

Two cases of racial profiling were investigated. The first was determined to be unfounded, and the trooper in the second case was exonerated of the allegation.

2002

Only one case was investigated for racial profiling, and the trooper was exonerated of the allegation.

2003

Only one case for racial profiling has been investigated, and the trooper was again exonerated of the allegation.

These figures confirm that racial profiling is not an issue with the Department of Public Safety / Utah Highway Patrol. In each case to date, when the individuals making these allegations were confronted with the facts of why they were stopped and enforcement action taken against them, without exception all of the complainants have withdrawn their allegation of racial profiling and apologized for the accusation.

IN-CAR VIDEO CAMERAS AND RACIAL & ETHNIC FAIRNESS

The use of in-car video cameras has greatly enhanced our ability as a department to investigate all complaints, including those surrounding race. The camera leaves no doubt in the minds of those investigating, and paints a clear picture of the entire incident from start to finish. Currently, approximately ninety percent of our troopers and sergeants who actually work the road are equipped with in-car video cameras.

STATISTICAL INFORMATION OVER THE PAST TWO YEARS

As an organization we feel it is important to share statistical information with our proponents and critics alike. We feel secure in what we are doing, and believe communication directed outside the department is important in order to bring support and understanding to our interdiction efforts. The following represents those efforts:

NOTE: The fiscal year 2001 numbers are lower because we did not have computers in patrol cars statewide for the entire year.

Problem with statistics: We do not know the make-up of the traffic flow, so stops in relation to ethnicity can not be known.

VEHICLES STOPPED AND PHYSICAL CUSTODY ARRESTS

FY2001 (7/01-7/02) 124,876 total vehicles stopped

Physical custody arrest reports on our database:

2001: 1499

2002: 7535

(The above numbers for custody arrests appear skewed simply because we have recently made great strides in our ability to capture information on a statewide basis. Convictions are difficult to track with all the jurisdictions, but on our large pipeline cases we have lost about two cases per year on motions to suppress evidence).

Ethnicity of Stops

Race

FY2001 (7/01-7/02) 124,876 total vehicles stopped

Alaskan Native	5
Polynesian	504
Asian	1263
Pacific Islander	148
Latino	9958
Caucasian/White	84571
Black/African American	1394
American Indian	430
Middle-Eastern	344
Remainder were Other/Unknown	

FY2002 (7/02-7/03) 172,288 total vehicles stopped

Alaskan Native	13
Polynesian	646
Asian	2463
Pacific Islander	479

White	135556
Latino	19814
Black/African American	2711
Caucasian/White	2743
Middle-Eastern	629
American Indian	1286
Remainder were Other/Unknown	

Suspicion / or Probable Cause for the Stop

Drug stop reason

FY2001

Stop reason	
Traffic Stop	306
Other	91
Roadblock	3

FY2002

Traffic Stop	1359
Other	197
Roadblock	16

TECHNOLOGY

Technology, and its various applications is a very high priority in the Department of Public Safety. The Utah Highway Patrol has steered in this direction for the past nine years. In 2003 we were able to equip all marked vehicles throughout the state with computers for the first time. As one of the larger departments in Utah, this was a costly and time-consuming task. Soon we will be at the point where we will have uniform collection of statistics, and the retrieval of vital information, including information related to ethnicity, will be easy and instantaneous.

The Utah Highway Patrols emphasis on technology underscores the determination to maintain a free flow of information / communication to all interested parties.

UHP WORKFORCE RECRUITING AND HIRING PRACTICES

The Utah Highway Patrol places an emphasis on hiring the most qualified and respected applicants, thereby ensuring exemplary service and treatment of citizens. A stringent multi-level hiring process is in place, which treats all applicants fairly regardless of sex and ethnicity. The UHP actively strategize to make employment opportunities available to all ethnic groups in the community at large. Flyers representing these groups are distributed, and troopers representing the various ethnic groups are utilized in recruiting to insure diversity in our ranks.

During the past three years however, there was a significant period of time when a hiring freeze was implemented, due to budget constraints and involvement in the 2002 Olympics. Because of

these constraints, we have not seen as much progress in this area as would be expected.

The Department of Public Safety has established and maintained an Equal Employment Opportunity Plan. This plan was last updated January 1, 2003, and has been approved by the U.S. Department of Justice, Office for Civil Rights.

COMMUNITY RESOURCE AND OUTREACH

The Utah Department of Public Safety has an aggressive outreach program in the form of our Utah Highway Patrol Citizen Academy. This program is conducted twice a year and goes for one night a week for ten weeks. The participants are a representation of minority groups, politicians, business leaders, and average citizens. The academy is a proactive attempt to educate and inform the community at large regarding our law enforcement practices, policies, and efforts to maintain a safe environment in the state of Utah. The course is very hands-on, and has participants actively engaged in decision-making scenarios, as well as the physical, emotional, and legal aspects of the job.

MINORITY OUTREACH

The state of Utah has a fairly significant Hispanic population. Although current outreach efforts lag with some of the other minority groups, the Department of Public Safety has made huge strides within the Latino community.

Nearly two years ago, Ernesto "Kiko" Cornejo was hired as the Utah Department of Public Safety Minority Community Public Information Officer. The following represents some of the outreach activities the department has been involved over the last year:

HISPANIC/LATINO SAFETY ACTIVITIES EDUCATION PROGRAMS

Month: October 2002

Event: "Antiviolence/Security Workshop"

Target Audience: 100 Hispanic parents of students attending Glendale Middle school

Extent of involvement: Two Utah Highway Patrol Troopers were situated at the entrance of the school. They greeted participants by handing out safety gifts for the children and parents. They also handed out Spanish brochures on the following topics:

Safe Kids, Buckle Up, Save Your Baby's Life and Five Rules to Live by when you are Riding Your Bike. The Troopers also trained Hispanic parents on child safety issues.

Month: November 2002

Event: "A Day With Utah Hispanic Community"

Target Audience: Phase #1 = Community Leaders Meeting. Thirty Hispanic community leaders, police authorities and Government officials, including Chiefs of Police from different Police Departments, Commissioner Bob Flowers, Utah Attorney General, Mark Shurtleff and other government leaders. Location of this meeting: Utah Department of Public Safety.

Phase #2 = 350 individuals from the Hispanic community in an open meeting at the Mexican Civic Center, 155 South 600 West, Salt Lake City. Participants included Commissioner Bob Flowers, Park City Police Chief of Police, Immigration authorities, Salt Lake City Chief of Police Mr. Rick Dinse and eight S.L.C.P.D. police officers, West Valley Police Department and also Hispanic community leaders.

This event was entirely organized with the intent of creating a link for better communication between the Hispanic community, DPS/ Utah Highway Patrol, various police departments and state authorities. In phase #1 and phase # 2 specific topics were discussed which primarily dealt with law enforcement and safety in the Hispanic community.

Extent of Involvement: The extent of involvement in this event included planning and organizing the event, selecting the location, lunch, sending out invitations and press releases.

Month: December 2002_

Event: "Las Navidades Hispanas" or "The Hispanic Christmas"

Target Audience: 2,010 (Two Thousand and Ten) Hispanic children and parents.

This event was entirely organized with the intention of:

- 1.- Giving away toys and helmets to 1,250 underprivileged Hispanic children in the community. Some of the toys and helmets were donated by Utah Highway Patrol troopers and civilians.
- 2.- Participation of 2,100 children and parents from the Hispanic community. Participants viewed Spanish Public Safety Announcement films on the importance of the use of seatbelts, helmets and car-seats. It was taped for future broadcasting on local Spanish television channels.
- 3.- Emphasis on building a better relationship between Utah Highway Patrol Officers and the Utah Hispanic community.

Extent of Involvement: The extent of involvement in this event included planning and organizing the program, establishing the location of the program, organizing the toy campaign in conjunction with the Utah Highway Safety Office, sending invitations and press releases.

Santa was a Utah Highway Patrol Trooper who arrived on his police motorcycle. Six other Utah Highway Patrol Troopers were there to assist Santa with the distribution of toys. The DPS Choir performed Spanish Christmas carols.

Month: January 2003

Event: Spanish and Cultural Awareness Classes for Utah State Police Officer's and State Employee's.

Target Audience: Sixty state of Utah troopers and state employees.

This program was entirely organized with the intent to help police officers and state employees learn Spanish, and teach them cultural awareness in an effort to create a link for better communication between the Hispanic communities, law enforcement, and other state employees.

Extent of Involvement: The extent of involvement for this new program included planning and organizing the classes, teaching the classes, searching for appropriate teachers and presenters, sending out invitations and press releases.

Month: April 2003

Event: "Dia De La Seguridad Hispano De Utah" "Utah Hispanic Community Safety Day"

Target Audience: Phase #1 = 540 Spanish students from Glendale Middle School.

This program was entirely organized with the intention of filming public safety announcements in Spanish, and also to help Hispanic students to understand the importance of using seat belts, car seats and helmets. The students took the messages home and shared it with their parents and other Spanish speaking relatives.

These Spanish television public safety announcements were distributed to the three Utah Hispanic television stations for to air as community public service announcements.

Extent of Involvement: The extent of involvement in this event included planning and organizing the event with Glendale Middle School and Utah Highway Safety Office. Filming / editing the Spanish public safety announcements, searching for helmets and car seats to be donated to the program. A press release was sent to the media the day of the event.

Phase #2 = Evening event (same as above)

Target Audience: Approximately 600 Hispanic children and parents met together in a community safety educational meeting at the Mexican Civic Center in Salt Lake City.

This program was entirely organized with the intent of teaching Hispanic families the importance of using car seats, seat belts, and helmets. For phase II we invited Utah Valley Health, Salt Lake City Police Department, West Valley City Police Department. Helmets and car seats were given away, and a car seat presentation and car seat check-point was conducted by Utah Highway Patrol Troopers.

Month: May 2003

Event: Information and Educational Booth at the CINCO DE MAYO celebrations organized by the Mexican Consulate in Salt Lake City.

Target Audience: Approximately 5,000 people from the Hispanic community.

An information and education booth organized by the Utah Highway Patrol was intended to give safety education to the Utah Hispanic community. Education consisted of: Car seats, seat belts, D.U.I. / aggressive driver, domestic violence, drug abuse programs, crime prevention programs and more. During this event a community program was filmed for an educational program at Telemundo, the local Spanish television station.

An additional information booth conducted by Utah Highway Patrol troopers was set up at the Cinco De Mayo celebrations, organized by the Mexican Civic Center in Salt Lake City.

Target Audience: Approximately 3,000 participants from the Hispanic community.

Month: July 2003

Event: Utah Hispanic American Festival information and educational booth with Utah Highway Patrol officer's.

Target Audience: Approximately 3,500 people from the Hispanic community.

This program was entirely organized with the intention of giving information to the Utah Hispanic community who attended the Utah Hispanic American function at Franklin Covey Field, 1300 South West Temple in Salt Lake City. Dates for the activity were as follows: Friday, July 11, 2003 from 5:00 P.M. until 9:00 P.M. and Saturday, July 12, from 2:00 P.M. until 6:00 P.M. The education surrounded car seat safety, seat belts, D.U.I., domestic violence, aggressive driving and other highway safety / law enforcement issues.

Additionally, on Saturday, July 12, at the same event, a thirty minute educational program was filmed for the Telemundo, Spanish television station. This program included the participation of Utah Highway Patrol Trooper Moreno, and targeted specific education about aggressive driving and the importance of community participation to ensure a safe environment for our families.

Extent of Involvement: Involvement in this event included planning and organizing, coordination with the Utah Highway Safety Office, and negotiating the donation of helmets, car seats, and other material to give away.

Month: August 2003

Event: First Annual Conference on Latino Health and Safety Issues.
“Building Cultural Competence in a Diverse Society”

Target Audience: Approximately 200 community leaders.

This program was entirely organized with the intention of giving information to the Utah Hispanic community leaders who attended the three-day conference. Information given included: health, highway safety, car seats, aggressive driving, and D.U.I. Other topics included drug use, court monitoring programs, rave parties, gangs, and internet pornography

The conference was conducted on the following dates:

Pre-conference activity: West Jordan Park, Saturday, August 16, from 2:00 P.M. till 6:00 P.M. With the participation of Utah Highway Patrol troopers, Hispanic children were educated about the importance of using bicycle helmets. One hundred helmets were distributed to children. The helmets were donated by the Utah Highway Safety Office and the Salt Lake Valley Health Department.

Conference. Hotel Sheraton, Salt Lake, Monday, August 18th and Tuesday the 19th from 8:00 A.M. till 5:00 P.M.

This three-day conference was supported by the following organizations:

Utah Department of Public Safety/ Utah Highway Safety Office, United States Department of Transportation, Senator Orrin G. Hatch's Office, Utah Attorney General's Office, US Attorney General's Office, (Attorney Paul Warner), Salt Lake City Police Department, Modesto Police Department, Park City Police Department, Utah Domestic Violence Council, Governor's Hispanic Affairs Office, and the City of Salt Lake.

Extent of Involvement: Involvement in this event included planning and organizing, negotiating with the Sheraton Hotel, researching costs, sending invitations/ flyers, obtaining bike helmets and other material for pre-conference activities at West Jordan Park.

Conference Keynote Speakers:

Mr. Paul Warner, US attorney, and Mrs. Gina Espinosa Salcedo, Regional Program Manager, NHTSA Region VII.

Conference Award Presentation Speakers:

Commissioner Bob Flowers, Utah Department of Public Safety

Chief Rick Dinse, Salt Lake City Police Department

Mayor Rocky Anderson, The City of Salt Lake

Special Award Presentation by: Olene Walker, Lieutenant Governor (Present Governor)

Video Message: Senator Orrin G. Hatch.

Conclusion

Criminal interdiction in the state of Utah and across the nation is ever changing. As an organization we have realized the importance of ongoing training for not only our special teams, but for troopers across the state in order to stay abreast of case law and proper technique. The use of technology, although not completely perfected at the present time, is also a tremendous tool for monitoring our activity in the field, and represents a proactive method for ensuring that constitutional rights are honored.

Although complaints in the area of racial profiling against the UHP are almost non-existent, and the few that have been investigated have proved to be not related to race issues at all, the Utah Highway Patrol has taken an aggressive stance against drug traffickers and an even more aggressive approach to ensure that our troopers stay within prescribed boundaries. Our effort to train troopers has created a continuity of procedure which has enhanced our professionalism and sensitivity towards all groups, including minorities.

The committee on Racial and Ethnical Fairness made several suggestions for enhancing the way DPS and other law enforcement agencies do business:

1. Establish and maintain Equal Opportunity Plans
2. Enhance minority recruitment efforts
3. Review the current complaint process
4. Strive to maintain partnerships with various community groups

As an organization, the Department of Public Safety/Utah Highway Patrol has made significant progress in all these areas. We have strived to reach out to the community at large through various programs aimed at racial and ethnic diversity, and intend to expand those programs in the future. Although we are not experiencing a racial profiling problem at the present time, the Utah Department of Public Safety/Utah Highway Patrol serves as a model for many other law enforcement agencies who are proactive and motivated to develop their own criminal interdiction teams, and who are not reluctant to conduct their day-to-day business in an open and transparent manner.

**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.*

Implementation Status: **Completed and Enacted into Policy**

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.*

Implementation Status: **Ongoing**

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.***

Implementation Status: **In Progress**

The Division will work towards rating and reviews that credit the efforts of its contract agencies. The Division will insert in language in regarding cultural competency in its upcoming Request for Proposals (RFP) release.

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: **Completed in part and ongoing**

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.*

Implementation Status: **Ongoing**

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.

Examples of projects: The Genesis work program does maintenance and grounds work at "This is the Place" monument, and the Veterans Cemetery. Other work crews do public works projects such as trail building at Antelope Island.

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: **(Commission Recommendation)**

This is outside the arena of the Division of Youth Corrections and should be addressed by the Commission, as a whole.

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.*

Implementation Status: **Ongoing**

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. Services are provided to an overwhelming majority of families-however, not all families benefit from this, and therefore, some youth are prepared for independent living.

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.*

Implementation Status: **Ongoing**

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. There are geographic limitations on the availability of providers. The only solution is to insure that those qualified programs to receive the right youth for placement.

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.*

Implementation Status: **In Progress and Ongoing**

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. Improvements in this category are again, pending the release of new RFP's.

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: **(Juvenile Court Recommendation)**

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.*

Implementation Status: **On hold- lack of resources**

The Division has experimented with employee exit interviews, but as of yet, has not adopted a formal process for assessing fairness in the work environment. Unfortunately, cutbacks in operational budgets have put this effort on hold.

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.*

Implementation Status: **In progress**

Pending the completion of the new data system, the Division will make efforts to collect this data. The new Juvenile Court information system, (CARE), is still in the testing stage. However, the CCJJ has indicated an interest in conducting this research.

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: **In progress**

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".

These initiatives are still in the "growing pain" stage. The training and gearing up of these initiatives continues. However, this will probably delay any meaningful results and analysis for approximately 2 years.

- 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.*

Implementation Status: **(CCJJ Recommendation)**

This again, is a project that CCJJ will undertake.

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

Implementation Status: **In progress**

The Division agrees, and will attempt to get this into its research agenda this year. Because of delays in the introduction of Division initiatives, no qualitative research has yet been undertaken.

Race, Gender, and Job Type Division of Youth Corrections Staff

Ethnicity	Job Type								
	Administrative			Service Delivery			Support		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Caucasian	76 57.1%	36 27.0%	112 84.1%	264 42.9%	185 30.1%	449 73.0%	15 14.0%	89 69.2%	89 83.2%
Other	19	3	21	115	51	166	7	11	18

	14.3%	1.6%	15.9%	18.7%	8.3%	27.0	6.5%	10.3%	16.8 %
Total	95 71.4%	38 28.6%	133 100%	379 61.6%	236 38.4%	615 100%	22 20.5%	85 79.5%	107 100%

Total Division Staff

Ethnicity	Male	Female	Total
Caucasian	355 41.5%	295 34.5%	650 76.0%
Other	141 16.5%	64 7.5%	205 24.0%
Total	496 58.0%	359 42.0%	855 100%

**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

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

Implementation Status: **Completed and Enacted into Policy**

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

6. *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: **Ongoing**

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.

Additionally, the Commission recruitment subcommittee has formed a group of twenty law enforcement representatives. A statewide request to all law enforcement agencies has also been made for additional representatives. The law enforcement group is working to develop recruiting strategies for law enforcement in Utah. Some of the ideas that have been suggested to date are billboards with specific minority groups and gender differences in uniform.

The exciting part about the recruitment subcommittee is that so many very talented individuals are coming to the table to discuss the opportunities for recruitment and willingness to develop plans for better recruitment.

7. *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: **Recommendation is being considered**

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.

There have been some discussions with psychological groups to determine if a tool could be created. In addition to this tool polygraph examinations are being given on a more frequent basis that may apply.

Through the Department of Natural Resources, a tool has been created for determining the candidates' qualifications for that particular employment. POST has inquired about additions to the testing process that would allow a predisposition for racial and ethnic bias. POST has suggested that agencies use a polygraph with questions that would help determine the bias of a particular candidate.

8. *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: **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.*

Implementation Status: **Ongoing**

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.

Refer to the Chiefs of Police update especially around the bias-based policing training module. We feel like the direction from the Chiefs Association and also those other individual agencies that may participate in this model have been well received and continues to be taught around the state. We do not have exact numbers of officers that have been trained in cultural competency. However, POST is offering more classes across the state than has been offered before and agencies, individually, for their in-service hours communicate much more on a regular basis about potential problems that exist in their communities.

- 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: **Ongoing**

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. Over the past year we have selected additional instructors that would accommodate the above-mentioned variety of lesson topics.

- 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: **Completed in part and ongoing**

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.

The issue concerning profiling has been a very complicated topic for law enforcement and much discussion has occurred concerning law enforcement's responsibility in the area of profiling.

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

Implementation Status: **(Chiefs' and Sheriffs' Recommendation)**

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.*

Implementation Status: **(Chiefs' and Sheriffs' Recommendation)**

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.

Through the dialogue and participation from POST with the Utah Chiefs and Utah Sheriffs Associations, there has been considerable dialogue in reference to racial profiling, racial and

ethnic fairness, and curriculums for officers and the appropriate responses from law enforcement to community problems in the areas of the complaints and citizens' interaction. POST continues to encourage agencies to look at their policies and especially train administrators in the areas of cultural competency and management of the various ethnic groups in their individual jurisdictions.

INTERPRETATION

5. *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: **Ongoing**

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. Although, through the work of the Utah Chiefs of Police Association, there has been an interpretive service set up for all Police and Sheriffs Departments across the state. This is a resource that, by one phone call, a pool of interpreters may be accessed especially for officers in the field and also for other communication links or opportunities as the Chiefs and Sheriffs need services.

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: **Ongoing**

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.

A continued effort exists through the Department of Public Safety on minority recruiting. Several

officers are attempting to influence individuals in their communities from ethnic groups to access the employment process for law enforcement. In a couple of areas, for instance, Tooele County officers are being recruited for law enforcement, not just in the Department of Public Safety, but also through Tooele County and Tooele City Police Departments as new recruits. Police Corps continues to reach out to diverse groups and access those new recruits in the training environment. The Recruiting subcommittee has also suggested a stronger effort by School Resource Officers. Law enforcement's influence on high school and even middle school will hopefully provide opportunities for younger students to consider law enforcement as a profession.

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: **Ongoing**

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.

One of the unfolding activities that is occurring is through the Western Community Policing Center, which is a federally funded resource to several of the western states; Utah is included. Kathy Hyde represents Utah on that committee and she has set up a subcommittee for community policing that several agencies are responding to and participating in. Part of these training opportunities will access the Western Community Policing Center's resource. The Center is also developing a program in Utah for a Native American or Indian Youth Academy which will help young individuals look at law enforcement, look at their community and potentially be influenced by the association with law enforcement and community leaders.

COMPLAINT PROCESSES

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

Implementation Status: **In process**

It has been recommended through the Chiefs and Sheriffs Associations that they proceed with a complaint process review that is written in each organization. In addition, the Utah Chiefs Association is proceeding to look at an accreditation process. One of the components of the accreditation would be to have a written policy that reflects the agency's response to complaints from citizens. Many of the Sheriffs will also participate in this accreditation responsibility.

Through POST Council, POST has also recommended agencies access their own national counterparts in the National Sheriffs Association and also the International Association of Chiefs of Police who may have model policies relating to this area that they could utilize or adopt for their individual responsibilities.

9. *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: **Process in place**

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.

We have found that there have only been a couple of requests for POST to consider allegations relative to officer's conduct in the field. In each of those cases the responses have been to send it back to the agency of which the officer was involved to allow them to conduct an investigation internally. There have been no investigations that have come back to POST relative to officers profiling or improper conduct related to ethnicity. We feel that in almost all circumstances proper resolution of complaints can be made and accomplished at the local level with each individual agency. This said, however, we feel at POST there is significant progress still to be made in the training and the resources available for agencies and citizens to get the final resolution of perceived or actual problems that exist between officers, agencies and the communities they serve.

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: (Commission Recommendation)

Hate Crime legislation is continuing to be a problem for passage. Various concerns have not made it easy to pass in previous legislative sessions.

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: Addressed

Administrators and Directors across the State, have no tolerance of officer's conduct relating to policing solely on race or ethnicity. Law Enforcement Administrators are very willing to discipline if conduct arises in this area that is improper.

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: **Model Policy Exists**

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. *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: **Process in place**

Currently there is a racial profiling piece of legislation passing through the Utah Legislature. Much discussion has been made from the Chiefs and Sheriffs and Public Safety concerning this legislation and as it unfolds, law enforcement will follow the dictates of the Legislature in this area. In addition, several agencies, including the Department of Public Safety, Highway Patrol, response is that much data has been received and documented concerning stops and the identification of various classes of individuals and the reason for stop and the consequence of that stop. We’re encouraged about the level of enthusiasm about individual agencies participating and identifying those areas that they can document and are willing to do so. The other problems that exist are in that officers are required to list their status and the reason for stop and the individuals stopped do not have the obligation to identify themselves. So in many ways the officer may have to guess the ethnicity of the individual being stopped.

2. *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: **(Dept Public Safety Recommendation)**

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

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.

Utah Sentencing Commission 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: **(See CCJJ Response)**

Because the Utah Sentencing Commission is housed within the Utah Commission on Criminal and Juvenile Justice (CCJJ), this recommendation will be addressed by CCJJ.

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: **Ongoing**

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) enlists 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 within CCJJ to minority applicants. This assistance has been helpful in recruiting qualified 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.*

Implementation Status: **(See CCJJ Response)**

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.*

Implementation Status: **Ongoing**

The Sentencing Commission meets with community councils, citizen task forces, victims groups, penal reform groups, political groups, and various other groups in order to make presentations and receive input. Efforts to establish and maintain partnerships with community groups are also furthered by the diverse membership of the Sentencing Commission. By statute, the Governor appoints one member to the Sentencing Commission who “exhibits sensitivity to the ethnic composition of the population.” This is a critical perspective.

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.*

Implementation Status: **Addressed in part (Commission Recommendation)**

This recommendation should be addressed by the Commission, as a whole. 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. Sentencing Commission staff provided assistance to several legislators during the 2003 General Session in areas of hate crimes research and drafting hate crimes legislation.

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.*

Implementation Status: **(See CCJJ Response)**

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.*

Implementation Status: **Completed in part**

In April 2003, Sentencing Commission staff presented a study entitled Race and Juvenile Sentencing in Utah to the Commission on Racial and Ethnic Fairness. The study used the Juvenile Sentencing Guidelines to compare outcomes for minority and non-minority offenders by evaluating rates at which sentences were aggravated or mitigated from the sentences recommended by the Guidelines. This was accomplished by analyzing sentencing data gathered by the Juvenile Court during calendar years 1999 and 2000. The study revealed that after modestly controlling for offense history and severity of current offense, minority offenders were more likely to receive aggravated sentences than non-minority offenders and less likely to receive mitigated sentences than non-minority offenders.

This study also addressed the use of aggravating and mitigating factors in juvenile court. In every instance where significant differences were found in the use of aggravating and mitigating factors among minorities and non-minorities, the difference were to the detriment of the minority offenders and to the benefit of non-minority offenders. In other words, minority offenders were more likely to receive aggravating factors and less likely to receive mitigating factors.

The findings on aggravating and mitigating factors may help explain the findings regarding differences in sentencing between minority and non-minority offenders or may further exacerbate the problem, depending on the way the data is interpreted. The Sentencing Commission is currently revising the list of aggravating and mitigating factors to help ensure that the factors themselves are not racially biased.

The existence of electronic data on aggravating and mitigating factors in the juvenile system made 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 and no electronic data on aggravation and mitigation rates in sentencing, that analysis will involve a manual search through case files. Before embarking on such a time and labor intensive project, the Sentencing Commission wishes to learn how the Race and Juvenile Sentencing in Utah study has been helpful in the juvenile 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.*

Implementation Status: **In progress**

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. Thus, the Sentencing Commission continues to focus on appropriate aggravating and mitigating factors.

As mentioned previously, the Sentencing Commission, through its Juvenile Justice Subcommittee, is currently revising the aggravating and mitigating factors in the Juvenile Sentencing Guidelines. Results from the Race and Juvenile Sentencing in Utah study provide valuable information regarding which aggravating and mitigating factors are being disproportionately applied to minority offenders and non-minority offenders. This will assist the Sentencing Commission in crafting appropriate factors.

**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: **On going**

In 2003, we determined that twenty (20) 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). We have not had any additional response other than original 20 counties. We will place this item on the agenda for a Sheriffs Association Business Meeting in April 2004 to discuss the status of this recommendation.

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: **On going**

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 inter-mountain 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: **On hold for lack of resources**

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. State Law allows access to performance records from prior employees and allows screening out of applicants with a history biased behavior.

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: **(POST recommendation)**

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: **(POST recommendation)**

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: **On going**

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: **In Progress**

The Sheriff's Conferences each September address diversity issues. There are efforts in process to create a "Command College" with Utah Chiefs and Sheriffs along with allied state agencies that would provide diversity training to law enforcement leaders.

- 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. The 2004 Conference will have a similar track.

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: **Mechanism in Place**

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. There is access to the AT&T Language Line, although cost is a major concern.

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: **On going**

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: **On going**

Some counties have formed partnerships in this regard. Presentations are regularly made to civic groups, schools, colleges and city councils to inform and obtain input from these bodies. Washington County, Davis County, Weber County and Cache County have developed community councils or advisory boards.

COMPLAINT PROCESSES

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

Implementation Status: **On going**

Approximately seventy percent of the counties have a written complaint procedure/process. The complaints process subcommittee will be conducting a survey to determine the agencies without a written complaint review process in place. Additionally POST has made a model process available, based on national standards.

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.

- 1. 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: **Completed in part and On going**

The International Association of Chiefs of Police 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, PERF, NOBLE, Commission on Accreditation of Law Enforcement Association and other professional organizations support this policy. The process to develop Citizen Review Boards raises many issues that must be addressed by Offices as review boards are implemented. Weber County has successfully established a citizen review board and has found it to be of great help in resolving disputes and in reviewing policies. No other County is known to have a Review Board in place at this time. This Board includes strong representation from the ethnic minority community. This successful effort to receive broad based citizen input into the complaint response process will be highlighted at the annual Sheriff's training conference in Sept. of 2004.

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: **(Commission Recommendation)**

This recommendation should be addressed by the Commission as a whole. This has not been implemented successfully due to the lack of effective hate crime laws in Utah. However hate crimes are charged and prosecuted in the same manor as any other offense and the "hate" aspects of the crime can be used by a Judge in the sentencing process.

- 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: **Completed in part and further efforts underway**

The Sheriffs Association has a no-tolerance policy for biased conduct based on race/ethnicity. Some counties, such as Weber County, have achieved or in the process of accreditation through CALEA which addresses and provides solutions to this problem. The Utah Sheriffs Association is forming an alliance with CALEA to implement the CALEA recognition program for other counties

in Utah. Standards already exist in the correctional area and are reviewed with each county jail annually as part of a jail inspection process. At present there are 7 counties that will begin with the recognition program this year. (The process takes most agencies two or three years for full implementation and review). Finally, quarterly business meetings and round table discussions with Chiefs and Sheriffs allow better coordination on how to handle these sensitive issues.

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: **Completed in part and ongoing**

The Model Racial Profiling policy was presented, trained, and adopted by the Association in the third quarter of 2001. This training is on-going on a as requested basis. Additional standards are being developed as part of the state standard creation process.

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: **On going**

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. This process is still occurring.

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: **(CCJJ Recommendation)**

This has not been implemented by Sheriffs , however CCJJ is attempting to track these issues and Sheriffs are monitoring closely the results of CCJJ's research.

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: **Ongoing**

The citizen review board process is new to Sheriff's Offices and future training on successful programs in the state will stimulate more Offices to use this procedure.

8. *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: **In progress**

This recommendation is being addressed by the new Racial Profiling Law. Data is being collected and as available the results will be reviewed and used to implement changes. The law enforcement standard creation process will also help in this area.

9. *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: **Ongoing**

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: **(CCJJ recommendation)**

This recommendation will be addressed through the new racial profiling law.

- 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: **(CCJJ recommendation)**

This recommendation will be addressed through the new racial profiling law.

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: **Completed and enacted into policy**

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. We believe that our example and emphasis has been beneficial.

- 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: **Ongoing**

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. No reportable action has taken place to further this recommendation. The Bar has again participated in the job fairs by the state's law schools but has not finalized a plan to encourage minority students to focus

on law school. Obstacles to implementation seem to include the daunting task of creating a comprehensive strategy to resolve cultural and economic challenges and to appropriately encourage career choices.

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: **Ongoing**

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. The Bar has sponsored 7 hours of CLE on cultural competence this last year, including seminars to new lawyers. The Bar has sponsored CLE training on the judicial selection process at its Annual Convention and sponsored 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: **In process of completion**

A pamphlet has been drafted by the Center and awaits final revisions and distribution.

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: **In process of completion**

A pamphlet has been drafted by the Center and awaits final revisions and distribution.

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: **Ongoing**

The Bar is sponsoring a collaborative effort to educate the public regarding the 50 year anniversary of the U.S. Supreme Court's decision in Brown v. Board of Education. We are also involved in providing resources with the courts for high school civics education curricula.

- 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: **Ongoing**

The Bar has specifically discussed the need for diversity with the governor in private meetings and continues to include that consideration when making any recommendations. We have included notices of all vacancies in all our electronic and printed communications and specifically mentioned minority applications.

- 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: **Lack of resources**

No further action on scholarships has been taken. Obstacles to the implementation include the need to prioritize demands among increasingly diminishing Bar resources.

- 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: **Ongoing**

The Bar has tried to increase minority representation on committees and convention planning groups. The Bar regularly purchases a table at the UMBA annual dinner and appreciates the participation of UMBA and minority representation on the Bar Commission. We continue to review options on scholarships.

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: **(Commission Recommendation)**

This recommendation should be addressed by the full Commission. The Bar has not considered a plan yet to establish 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: **Ongoing**

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 has not developed a more comprehensive plan to encourage further participation by Utah women of color.

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: **Completed**

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: **Ongoing**

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: **Ongoing**

The Utah State Bar Commission has reviewed the records of the Office of Professional Conduct for any indication 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: **In progress**

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 admissions process is still under review and the evaluation of the process has not as of yet included a review of disparate impact in the bar exam.

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: **In progress**

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 has not yet further developed a satisfactory solution and is searching for a viable source of information to guide the study.

**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: **Completed an enacted into policy**

The Courts have an Equal Employment Opportunity Plan which is updated annually. The current plan can be found at: <http://www.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: **Ongoing**

Over the last year the courts, like the rest of state government, had to manage significant budget reductions. In the area of personnel, nearly one hundred positions, or eight percent of the entire workforce, were eliminated and a complete hiring freeze was in place for nearly the entire reporting period. The hiring freeze was changed to a hiring slow down of eight weeks as of July 1, 2003. As a consequence, there was very little in the way of recruitment or hiring during this

period. Of all those hired since July 1, 2003, 12.7% were minorities, as opposed to slightly over 11% percent of the current workforce.

What employment has taken place has been principally at the trial court level, rather than central office. Recruiting and hiring is largely administered at the local level and varies according to the location of the court. Urban and rural courts serve different populations and have different challenges, therefore, the approach to recruiting a minority population will vary. Inquiry was made of all court executives, who are the court level hiring authorities, across the state as to their experience in recruitment activities over the last year and their responses are summarized as follows:

1. Judges and staff often make regular appearances in high schools, colleges, and communities to both educate people on the mission of the courts as well as promote opportunities at the courts. In some instances current minority staff members are active within their communities thus allowing additional opportunity for outreach.
2. Courts located in rural areas have made progress on developing relationships with minority populations, and in some instances, current staff members serve on local advisory boards geared toward reaching minority populations.
3. Courts throughout the state actively seek and utilize internships as a method to recruit future staff members. In some instances interns are able to obtain full time employment with the Courts when they meet the educational requirements.
4. Court openings are advertised on the courts web page and with the Department of Workforce Services, the Department of Human Resources Management, at local colleges, and other organizations when applicable.
5. Unpaid internships have been utilized when possible and where interested candidates have been identified. Most interns are filled by candidates from local schools. However, implementation across all judicial districts has been at varying degrees and with varied success.
6. Courts across the state have worked to develop contacts with local ethnic minority organizations in regards to posting employment opportunities. It is reported that in some areas these efforts have been met with mixed results, such as organizations not providing applicants who meet minimum qualifications or not following through on posting job openings that have been provided. In some instances the most effective efforts have been by direct contacts by current minority staff with members within their own communities. Now that the hiring freeze has been lifted, additional attention will be directed to implementing this objective.
7. An “Employment Opportunities in the Courts” brochure has been created and

distributed to hiring authorities across the state.

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: **Completed and Ongoing**

The Workforce Composition report and Utilization Analysis reports have been developed and are available on the Courts website. Human Resources is in the process of updating the information and plan to have it completed and reported to the Judicial Council in a year ending report. In addition, a new Retention Report has been developed and includes termination data for the past year. The findings are that of the 150 employees terminated since January 2003, 10.7% were minorities. Among current court employees 11.2% are minorities.

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: **Recommendation unworkable in its present form**

There are 140 independent government entities that sponsor justice courts across the state, each with its own hiring policies and rules. Their personnel practices and funding are administered by the local government unit, not the Judicial Council. In the case of justice courts, just as with local law enforcement, any blanket requirement for data collection and retention would have to be statutory. A resolution urging local governments to recognize the importance of cultural diversity and to put in place recruitment efforts which will result in diverse applicant pools will be included in the next justice court certification process.

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

Implementation status: **Unknown - calls for individual action**

The recommendation calls for individual judges to consider the importance of diversity in appointing law clerks. There is no way to determine the extent to which this is being done in individual cases, but collectively we know that, at the present time, 13% of all law clerks are minorities.

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: **Has been addressed**

A subcommittee of the Racial and Ethnic Fairness Commission raised this issue with the Supreme Court Criminal Procedures Rules Committee which considered the matter and elected not to advance a rule change. The concern with adopting a rule was not with the substantive issue being addressed, but rather the precedent of creating specific collateral warning rule which conceivably could extend to a multitude of such warnings.

- 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: **Completed and ongoing**

The Judicial Council's Education Standing Committee has worked to implement this recommendation. Extensive training on this topic was provided at the 2002 Annual Conference attended by all state judges and members of the Board of Justice Court Judges. The Chair of the Interpreter Advisory Committee has been actively involved in planning these programs. Education programs building on this 2002 program can be expected to be held regularly, but not every annual conference.

- 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: **Training completed**

This topic was addressed at the District Court Judicial Conference in 2002. Since that training program, the courts have been informed by Adult Probation and Parole that bilingual psychological exams were being discontinued until a level of funding is provided that will ensure they are being conducted correctly. Future training will be dependent on the decisions by AP&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.

Implementation Status: **Completed and ongoing**

The Administrative office of the Courts implemented a cultural competency training program, adapted from the Utah Multi Agency Cultural Competency Curriculum, during 2002. This training was mandated for all court employees by the state court administrator. Training for judges was provided to District, Juvenile, and Justice Court judges at their 2002 conference. A comprehensive report was provided to the Judicial Council at the conclusion of this training program.

Following the implementation of the cultural competency training program, the Judicial Council's Education Standing Committee approved making the cultural competency course mandatory for all employees, and it being held 2 or 3 times per year so that new employees coming into the court system can take the program.

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: **Completed and ongoing**

This topic of juror rights was addressed at this year's annual judicial conference. Additional training opportunities on this topic should be provided at future conferences. See addendum following the research section.

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: **Unknown - calls for individual action**

This recommendations call for individual judges to make a heightened examination of their own sentencing practices. Training programs and presentation of data , such as the disproportionate confinement of juveniles study, have been provided which, hopefully, will prompt individual judges to examine this issue. Systemic research has not been conducted.

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: **Completed and ongoing**

The courts web site, <http://utcourts.gov>, has extensive information about the profession of court interpreting, including certification information. Information has been added to the web site informing the public of their entitlement to a court interpreter in qualifying cases. As court notices are being revised, where appropriate, they are including language regarding the right to an interpreter. In addition, many court information pamphlets and related materials have been printed in Spanish.

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: **Completed in part**

Recommendation regarding the employment of a full time state wide administrator and employing full time interpreters have not been pursued because of reductions in the courts budget over the last two years and there are no immediate plans to add personnel for this work. In the alternative, existing resources have been redirected to provide additional support. A realignment of duties within the Legal Department has resulted in the employment of a program manager whose duties include the oversight of interpreter programs. With existing staff, interpreter coordinators have been named in each judicial district and training has been provided. A full time interpreter coordinator has been employed in the largest judicial district , who, in addition to coordinating the assignment of interpreters, also assists the AOC in providing information to potential interpreters and in recruiting bilingual members of the community to become court interpreters.

There are currently no full or part-time staff interpreter positions or any plans to employ , rather than contract for interpreting services. This decision will be driven, in large measure, on whether there is a location where employment would be more cost effective.

Interpreter selection guidelines have been completed, as well as the professional code, discipline and grievance procedure. Interpreters who wish to serve in the Courts must attend training on the Code of Professional Responsibility and pass a written ethics exam. The availability of training workshops has been increased and minorities within the community are being actively recruited.

The AOC has provided training to interpreters with the JUSTICE FOR ALL COMPACT, an association providing volunteer interpreters in civil court cases for low income parties.

The Spanish court interpreter certification program continues to be strengthened. This year, six new interpreters were certified and the geographical representation of certified interpreters has grown, with one new certified interpreter in Logan and one in St. George, and the rest residing along the Wasatch Front. The primary reason for not certifying languages other than Spanish at this time is the unavailability of funds to offer the necessary training required for certification requirements, however, the AOC provided some financial assistance to a Vietnamese interpreter to travel to a nearby state that does provide certification in that language. The certification program has also been strengthened by development of a structured continuing education requirement for certified interpreters this year. The AOC will develop training programs to assist interpreters to satisfy the continuing education requirement.

- 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: **Ongoing**

The continuing education requirement for certified interpreters will assist them to continually upgrade their language skills and cultural competency. The addition of an English/Spanish Diagnostic pre-test to the certification process will help interpreters assess their bilingual skills and identify areas where further study and practice is needed. During this past year, the AOC also offered language-specific skill building workshops in a cooperative effort with Salt Lake Community College. We continue to recruit minorities within the community and are usually able to meet our interpreter needs that way. Additionally, as a member of the Consortium for State Court Interpreter Certification, Utah now has access to interpreters in a variety of languages in nearby states, if needed. Utah also subscribes to Language Line which provides telephone interpreting in hundreds of languages as needed.

- 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: **Completed and enacted into policy**

This has been completed and initiated into policy. "Second Language Stipends" are being awarded to a limited number of qualifying employees in every 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: **Considered and determined to be unworkable**

The Judicial Council's Court Interpreter Advisory Panel has studied this recommendation and recommended against its implementation. Their review determined that a centralized oversight authority is not workable nor practical due to the vast differences in interpreter services, requirements and policies across criminal justice agencies. In addition, they determined that the courts focus on strengthening court interpretation and quality control would be compromised. This recommendation should be deleted as a court objective.

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: **Completed and ongoing**

This training is being provided for all new judges as part of a new judge orientation program. In addition, this topic will be scheduled periodically as part of continuing judicial education for all judges.

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: **Completed and ongoing**

The Public outreach Committee, through the Administrative office of the Courts, has sponsored and conducted seven community-court forums that both provided education on court process and an opportunity to improve communication. The outreach committee has also served as a clearinghouse for information and resources used by local courts in their own communities, which include: school based programs, self represented litigant assistance, community court forums, community education programs, volunteer programs, speakers bureau, media services and programs, and the courts web page.

The courts commitment to outreach efforts is reflected in the adoption of Rule 3-114 of the Rules of Judicial Administration, which is intended to foster a greater role for judges in service to the community. Rules have also been adopted to allow education credit toward mandatory continuing education requirements for judges and court staff for public outreach work in their communities. In addition, the Utah Supreme Court has amended the Code of Judicial Conduct to read "As part of the judicial role, a judge is encouraged to render public service to the community."

Trial court executives from across the state have established a group which is monitoring local community outreach efforts for best practices that can be replicated in other courts. These efforts include courthouse tours and school programs

In 2003, the courts collaborated with the Utah State Bar to orchestrate the commemoration of landmark US Supreme Court's decision in "Marbury vs. Madison" on February 24, 2003. Approximately 154 students participated in the program statewide, visiting state courthouses across Utah. Students were able to visit courtrooms, meet with judges and attorneys, and discuss this important case.

During the month of March 2003, approximately 85 students from two Park City schools visited courtrooms and judges in 3rd District. Their tours included court observation and debriefing with a judge, meeting with district court and appellate court judges, and tours of the Matheson Courthouse.

The Salt Lake School District Internship Program focused on law during this past year, and two groups of high school students came to the Matheson Courthouse to observe court, and meet with judges and court staff to learn more about the court system and jobs in the court.

In August 2003, the Judicial Council voted to elevate the status of this committee to a Judicial Council Standing Committee, and this process is now underway. Prior to this action, public outreach was one of many activities under the Standing Committee on Judicial Branch Education. The Education Standing Committee supported the creation of a standing committee devoted exclusively to public outreach, thus highlighting the organization's support for this effort.

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: **Ongoing**

Where appropriate, such as the collaborative effort with the Utah State Bar in the Marbury v. Madison program in schools mentioned above, joint effort have been undertaken. As a general rule, however, it is felt that educational topics on law enforcement and law enforcement outreach efforts are best addressed by individual law enforcement departments.

With respect to the judicial complaint process, parties with complaints against judges are referred to the Judicial Conduct Commission for information on their complaint process, and they are mailed an information brochure. This information is also available on the Utah State Bar web site,

and the court web site has a link to this information. Education on the Judicial Conduct Commission complaint process is best provided by the Commission, rather than the courts, to emphasize the independence of the Commission.

Complaints against non judicial court employees are addressed to court executives who are responsible for employees within individual judicial districts. A 1-800 information line program conducted by the Administrative Office of the Courts was discontinued July 1, 2003, as part of the budget reductions required in state government.

There has been an effort to include information on tribal judges on the courts web page. A web page link has been created, however, the actual content will be dependent on information provided by the tribal courts, which has not yet been provided.

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: **Completed and ongoing** (see 2b above)

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: **(Commission Recommendation)**

Programs designed for the purpose of learning more about hate crimes should be sponsored or supported by the Commission itself. The courts have no independent plans to provide such programs.

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: **Completed and ongoing**

Reports covering court workforce recommendations have been prepared and are presented to the Judicial Council annually. The next report to the Judicial Council is scheduled for the Council's December meeting. This report will be published on the Courts website.

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: **(Dept of Corrections Recommendation)**

This recommendation is directed at contracts for adult services which are not administered by the courts. There are contracts for services for juveniles which the courts do administer and the model Request for Proposal (RFP) language regarding cultural competency will be considered for inclusion in future RFPs for services for juveniles, once finalized by the Commission.

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: **Completed in part**

Reductions in the courts budget over the last two years have precluded any consideration of the creation of the new advocacy positions described in this recommendation. There are no plans to fund such positions. In the alternative, court employees receiving the second language stipend are being called on to perform part of the role envisioned in the recommendation. Currently, there are X court employees receiving this stipend.

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: **Completed and ongoing**

As the Racial and Ethnic Fairness Task Force was involved in its study, they notified the Juvenile Court about the lack of complete racial and ethnic data on youth referred to the Juvenile Court. Since that time, management has taken the initiative to correct the problem. On a quarterly basis, reports are run that reflect the percentage of racial data collected. Juvenile Court has improved the collection of this data. When we first became aware of the problem, 72% of the cases had data. It has improved to 91% as of the last update and we will continue to track the collection of this data carefully.

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: **Completed**

This judicial application have been revised to include the recommended information, which is now being maintained for statistical analysis.

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: **Completed**

The data is collected by position, however, since it is an optional and separate part of the application, not all applicants will complete the form which effects the validity of the statistical analysis. This information is tracked by Human Resources independent of hiring departments and is not shared with the hiring committee.

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: **Completed in part**

The annual performance review form has been modified to include a racial and ethnic fairness component and has been utilized in the most recent review cycle. The exit interview form, which is not utilized by all judicial districts, has not been updated to reflect a racial and ethnic fairness component. In the coming year Human Resources intends to work with individual districts to make more effective utilization of exit interviews as well as add a racial and ethnic fairness component.

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: **(Local government recommendation)**

There are 140 independent government entities which sponsor justice courts across the state, each with their own hiring policies and rules. Their personnel practices and funding are administered by local government units, not the state court system. In the case of justice courts, just like law enforcement, any blanket requirement for data collection and retention would have to be statutory.

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: **Ongoing**

The Courts will import race data from driver license division records. Race data is not available from voter registration records. This is only a first step, but nothing else can be done until it is taken. See the addendum 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: **Recommendation unworkable in its present form**

There are 140 independent government entities that sponsor justice courts. Their personnel practices and funding are administered by the local government unit, not the Judicial Council. The Judicial Council does not have the authority to require this information; such a requirement would have to be set by statute.

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: **Considered and determined unnecessary**

The Judicial Performance Evaluation Committee has considered this recommendation and determined that it is not necessary based on previous experience. In years past the performance evaluation survey was a two part survey, one part for information to be included in the voter information pamphlet, the other part for individual judges for self improvement purposes. The public part asked a question about whether a judge’s behavior is free from bias and favoritism. The self improvement part asked a multitude of questions regarding specific bias, including those contained in the above recommendation. Researchers studied the results of these two different forms of asking the question over time and found that the responses to the two different questions were identical. In an effort to reduce the length of the survey and improve response rates, the Committee elected to use the question now asked, which is “Is a judge’s behavior free from bias and favoritism.”

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: **Ongoing**

The research called for in this recommendations is dependent on an data system that collects information on interventions a youth receives. For the past three years, many in the Juvenile Court and Youth Corrections have worked on the engineering of new juvenile information system, called CARE. One of the modules to be developed, called Services/Assignments, is specifically being developed to collect information on program participation, interventions received, and the level of supervision received. Once totally implemented, and current expectations are for that to happen in June of 2005, the juvenile justice system will be capable of providing the data necessary to determine what programs work for what types of youth.

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

Implementation Status: **Ongoing**

Work is in the planning stage to add additional source lists from which to construct the master jury list. See the addendum 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.*

15. *The Administrative Office of the Courts should sponsor research to determine whether 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: **Considered and determined unfeasible**

The Committee on Improving Jury Service studied both of these recommendations and recommended against the proposed research projects. Basically, only one of the projects has a valid research design and it would be prohibitively expensive. It is recommended that items 14 and 15 be eliminated as recommendations. See the addendum following the research section.

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.*

Implementation Status: **Considered and determined unworkable**

No research has been conducted to see if there is a relationship between income level and custody decision. In years past, the Juvenile Court collected information on family income. The response from families was that they considered this to be an intrusion into their private affairs and they were insulted when asked about income. Based on the response, income data was dropped as a collected data element. It was felt that maintaining a positive relationship with families is the paramount concern when we are seeking their support when working with their children. It is recommended that this item be dropped as a recommendation.

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

Implementation Status: **Ongoing**

There are some qualitative reviews of youth who exit the system successfully. A number of probation units send out surveys to youth and families regarding their probation experience. Often, surveys are not returned. Of the ones that are, compliments are received regarding the performance of probation staff.

From a more comprehensive view, the question suggests we should be conducting more objective reviews with specific outcome measures of kids under the supervision of Juvenile Court and Youth Corrections. As previously mentioned, part of the new CARE system will include a module that will collect information about interventions received. At this time, we can make global statements about recidivism, but we believe the intent of this recommendation is directed at the individual youth. This will be possible once the new CARE system is fully implemented.

**Report of the Committee on Improving Jury Service
To the Judicial Council Regarding
Recommendations of the Commission on Racial and Ethnic Fairness**

The Judicial Council has referred to the Committee on Improving Jury Service several recommendations of the Commission on Racial and Ethnic Fairness. The Committee has reviewed these recommendations and offers the Council these further suggestions. The Commission's recommendations are in quoted bold.¹

EDUCATION

“(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.”

The Committee fully supports training for district court judges on the *Batson* line of cases and other aspects of minority participation in jury trials. However, it appears from the Commission's report that this recommendation has already been submitted to the Committee on Judicial Branch Education. (“This topic was brought to staff for the Education Planning Committee. It will be addressed by this committee for inclusion in future District Conferences.”) The Court of Appeals has issued a *Batson*-related opinion that shows the need for such training. *State v. Chatwin*, 2002 UT App 363. We encourage the Committee on Judicial Branch Education to give the topic a high priority during conference planning.

¹ For the purpose of our analysis we have split Commission recommendation 14 into three component parts: The first is closely related to recommendations 12 and 13; the second is discussed separately; and the third is closely related to recommendation 15.

RESEARCH

The remaining Commission recommendations focus on research. It appears that only one of the research projects is feasible at this time. One is conceptually flawed. Another is extremely complex. For the remainder, we simply lack the tools necessary to conduct competent studies. We discuss each recommendation in turn and what we believe are the most constructive next steps to ensure racial fairness in jury selection and to position the judiciary for future research.

“(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.”

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

“(14) The Administrative Office of the Courts should sponsor significant research on the source lists for the jury master list”

To evaluate the representativeness of minorities on juries we need to compare the racial demographics of our master jury list with the demographics of the population at large. This task faces obstacles from lack of comparable data and the limited ability to obtain that data. These obstacles are not insurmountable, but they need to be anticipated.

To measure the number of minorities among the population at large we could use the federal decennial census data, which is extrapolated annually by the Governor’s Office of Planning and Budget (OPB). The figures are estimates, not counts, but they remain the best data available. The decennial census contains 24 race and ethnicity categories. However, the extrapolations by the OPB contain only five. The more current the estimates, the less inclusive the categories. The more inclusive the categories, the more dated the information.

Currently we do not maintain race data on jurors, although we have a field in which to record the information. The records of jurors on the master jury list do not originate with the courts. We obtain the records of the Driver License Division of the Department of Public Safety and the voter registration list from the Lt. Governor, and so we are limited to the data contained in those records. Only within the last few years have persons applying for a driver’s license or identification card been able voluntarily to declare their race. The Division reports about 80% participation, but the data base will fill only as people apply for new licenses. The Division uses the same race and ethnicity categories as the federal census. Comparing the Division’s 24 race and ethnicity categories with the OPB’s 5 categories may not yield comparable information. The race of voters is not recorded.

The Committee earlier reported that the place to start improving the representativeness of minorities on juries is to improve their representativeness on the master jury list. To achieve that goal we reemphasize our earlier recommendation to include new and diverse source lists from

which to build the master jury list. If minorities are fully included on the master jury list, randomness alone should ensure representativeness on the qualified jury list. If an imbalance on the qualified jury list exists even after using multiple source lists, there are tools, such as the random stratified selection used in San Juan County, to address the imbalance.

Possible examples of new source lists include records of the: Tax Commission; Office of Vital Records and Statistics of the Department of Health; Office of Education; Office of Aging and Adult Services, Division of Child and Family Services, Office of Recovery Services and Office of Services for Persons with Disabilities of the Department of Human Services; Department of Workforce Services; Division of Occupational and Professional Licensing of the Department of Commerce; and the records of the district and juvenile courts. Conceptually, the task is simple, but the time and cost required to program computers, to negotiate the availability of lists and to implement the delivery is significant.

The research recommended by the Commission will be difficult to conduct in any event. To proceed now appears premature. Rather than researching the effects of just two source lists with incomplete data, we recommend using those resources to expand our source lists and improve our data.

“(14) The Administrative Office of the Courts should sponsor significant research on ... the jury qualification process ... 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.”

This recommendation contains two separate research tasks: the juror qualification process; and perceptions of jurors of bias against them. The second task first: Obtaining jurors’ perceptions of racial bias against them does not require us to maintain race data in the juror database. The perceptions of jurors can be obtained and measured using standard random sample survey methods. To build a credible study, however, requires much more than distributing questionnaires at the courthouse. If the Judicial Council decides to pursue this line of research, we recommend the AOC hire a survey consultant to help design the survey questionnaire, identify the random sample of jurors, conduct in-person or telephone interviews, record the data and report the results. A survey consultant will provide not only the professional expertise necessary for a rigorous study but also separation and independence.

A further word of caution for the survey design: A fundamental difficulty with any sound analysis of the influence of race on jury selection in Utah will be the difficulty of obtaining statistically significant results. Because there are relatively few minorities in Utah, the sample size will have to be correspondingly large. Without a sufficiently large sample, differences based on race, even if they are measurable, will not be statistically significant, and what is otherwise good research might be so much wasted effort.

Studying the qualification process for racial bias does require us to maintain race data in the database. The difficulty of obtaining that data is discussed as part of recommendations 12, 13 and

14. The research faces the further difficulty of a jury management system inadequate for the task. To measure whether race influences the qualification process, the record of a juror must contain the juror's race and the point at which the juror "exits" the qualification process. Do minorities respond to qualification questionnaires and summonses at a rate different from Whites? Do clerks follow up with minorities who fail to respond at a different rate? Is the juror removed for cause or by peremptory challenge? Is the computerized, random selection of names from the master list truly random? We can answer only some of these questions with the current jury management system.

The Committee reemphasizes our earlier recommendation to modernize our jury management system. In addition to improving data management for purposes of demographic research and other business purposes, modern jury management systems offer significant conveniences to the clerks and to jurors, such as on-line information, on-line qualification, on-line scheduling and automated payment.

"(14) The Administrative Office of the Courts should sponsor significant research on ... the use of peremptory challenges for racial and ethnic bias."

"(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."

The Committee has grouped these two recommendations because they focus on the trial itself, rather than the jury lists and pretrial procedures. They present the most difficult research problems of all. The complexity of the studies is suggested by our inquiry to the National Center for State Courts, which revealed that no one has conducted published research on either of these two questions.

Studying the impact of race on peremptory challenges will face all three of the challenges already discussed: lack of race data in the jury data base; inadequate jury management system; and costly surveys. To measure the influence of race on peremptory challenges, the record of a juror must contain the juror's race. The juror's record must reflect the fact that the juror was removed by a peremptory challenge rather than by some other means. We would need to question - probably the judge, the juror and the attorney - whether they perceived that race influenced the peremptory challenge.

The data collection for recommendation 15 would be very complex: race of the defendant; race of the jurors; trial outcome; definition of "absence" of minorities; definition of "minorities"; and definition of "fair trial". How does the research control for other factors, such as religion or education? How does the research interpret conviction of a lesser offense or conviction of one charge but not a second? More important, the premise is flawed: A conviction does necessarily mean the trial was not fair. There appears to be simply too many differences among the cases to

warrant comparison: different defendants tried by different jurors from different counties considering different evidence of different crimes.

CONCLUSION

Welcoming people of color – welcoming all qualified citizens – to participate in the ultimate act of democracy – jury service – is an important goal. A desire to research whether we are achieving that goal is laudable, but the research, to be credible and to show the way to our goal, must have adequate design, data and expertise. If the Judicial Council decides to research jurors’ perception of bias, we recommend hiring a survey consultant to conduct a random sample survey. We recommend that the last two research projects identified not be pursued. Comparing conviction rates is inherently invalid, and measuring the influence of race on peremptory challenges, while theoretically valid, is too complex. For the remainder of the research, we must first position the judiciary with more and diverse juror source lists and a jury management system adequate for the task.