

Colorblind Justice?

**Minority Youth Over-Representation
in Arizona's Juvenile Justice System**

**September 18, 1998
Phoenix, Arizona**



Conference Report

Arizona Supreme Court
Commission on Minorities

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Introduction

*On September 18, 1998 nearly 200 juvenile justice practitioners, administrators and policy makers came together in Phoenix, Arizona to address the over representation of minority youth in Arizona's juvenile justice system. The conference, entitled **Colorblind Justice? Minority Youth Over-Representation in Arizona's Juvenile Justice System**, was an effort of the Arizona Supreme Court Commission on Minorities. The conference sponsors included the Arizona Supreme Court Juvenile Justice Services Division, Arizona Governor's Division for Children, Arizona Juvenile Justice Commission, Federal Office of Juvenile Justice and Delinquency Prevention, Coalition for Juvenile Justice, and the National Council of Juvenile and Family Court Judges.*

Following opening remarks from distinguished guests including Arizona Supreme Court Chief Justice Thomas A. Zlaket and George Weisz, Executive Assistant and Criminal Justice Policy Advisor to Arizona Governor Jane Dee Hull, James C. "Buddy" Howell, former Division Director for the Federal Office of Juvenile Justice and Delinquency Prevention presented the morning keynote on the history of minority youth involvement with the juvenile court. Dr. Howell's remarks focused on the approaching centennial of the juvenile court, reflecting on its history and looking ahead to its future. Next, a multi-disciplinary panel discussion by presenters representing federal, state and local systems explored the broader issues surrounding minority youth over-representation in order to provide the audience with a baseline of understanding regarding the issues related to minority over-representation and disproportionate minority confinement.

During an uplifting and inspirational luncheon keynote address, the Rev. Warren H. Stewart of the First Institutional Baptist Church of Phoenix provided those in attendance with a "vision for minority youth." The conference continued with a series of six concurrent sessions exploring court and community partnerships, cultural competence in justice system decision-making, the education system's impact on minority over-representation, dependency and domestic violence issues facing minority families, legislative and grass-roots advocacy, and cultural competence in mental health treatment programs. The conference concluded with a lively panel discussion addressing the media's portrayal of juvenile crime and minority youth and the impact of the media on minority over-representation.

This important event was the culmination of months of planning by the Commission on Minorities and could not have happened without the leadership of conference co-chairs Gerald Richard and Carole Coles Henry, as well as the support of the Administrative Office of the Courts, specifically George Logan, Karen Lodoen, Tami Danze and Patti Cordova.

The conference looked beyond the juvenile justice system proper to examine the roots and potential solutions to the over representation of minority youth in Arizona's juvenile justice system. Through this important undertaking and the dedication of the Commission on Minorities, Arizona demonstrated once again its important role as a leader in shaping the future of the juvenile justice system

The report that follows seeks to create a permanent legacy of this critical event, and to offer suggestions for action by policy maker and community leaders. It is our sincere hope that the words and ideas shared at the conference and in this conference report will stir others to action to set the state of Arizona on a path to achieving a juvenile justice system that is fair and equitable to all.

Conference Welcome

Commission on Minorities Chair Gerald Richard opened the conference by introducing Arizona Supreme Court Chief Justice Thomas A. Zlaket.

Justice Zlaket stated that there is indeed an over representation of minority youth in Arizona's juvenile justice system. "The issue is not debatable," he said. "I invite any who doubt the existence of over representation to simply visit our juvenile court or detention facilities" to see it firsthand. The question, Justice Zlaket stated, is not *whether* minority over representation exists, but *why* it exists and *how* we can begin to reverse this trend. He encouraged participants not to simply go back to their jobs and



AZ Supreme Court Chief Justice Thomas A. Zlaket

place their conference materials on a shelf to collect dust, but to actively seek opportunities in their daily work to address minority youth over representation.

"We must put into place policies and procedures to institutionalize a mindset" which recognizes and seeks to correct minority over-representation. Justice Zlaket charged participants to make Arizona a national leader in addressing Disproportionate Minority Confinement (DMC) in the same way it has become a leader in so many other criminal and juvenile court reforms, including court access kiosks, jury reform measures, and court self-help centers.

George Weisz, Executive Assistant and Criminal Justice Policy Advisor to Arizona Governor Jane Dee Hull supported Justice Zlaket's assessment, stating that he had personally visited Arizona's juvenile detention centers and seen the disproportionate numbers of minority youth. Mr. Weisz brought greetings on behalf of Governor Hull and relayed her support for the conference and the work of the Commission on Minorities. He spoke of the importance of prevention and front-end services for youth, reminding participants of the Governor's words on previous occasions, that "sick kids can't learn; hungry kids can't learn;

abused kids can't learn; scared kids can't learn; and discriminated kids can't learn."

Mr. Weisz stated that there has never been a more opportune time to address minority over-representation, as every branch of state government is currently looking at juvenile justice issues. All are crying out for prevention, including the police and sheriffs who are calling for more support for such prevention efforts as after school programs and boys and girls clubs.

The administration is looking at diversity in state agency staffing and programs and reforming Arizona's juvenile detention centers. Mr. Weisz went on to describe many of Arizona's ongoing initiatives, including the Department of Correction's mentoring program, the Neighborhood Investment Initiative which is building infrastructure in at-risk communities to prevent urban decay, and the Phoenix Violence Prevention Initiative which has produced 13 strategies to prevent violence.

Mr. Weisz applauded the participants for their efforts and stated that the



James C. "Buddy" Howell presented the morning plenary session following an introduction by Michael B. Bayless.

Governor is looking forward to the conference producing a "blueprint" for addressing DMC in Arizona.

Janiculum: A Look at 99 Years of the Juvenile

In the morning plenary session following opening remarks, Dr. James C. "Buddy" Howell, noted author and former Division Director for the Federal Office of Juvenile Justice and Delinquency Prevention, discussed the history of the juvenile court and the history of minority youths' involvement with the court. Dr. Howell's remarks were based in part on the Janiculum Project of the National Council of Juvenile and Family Court Judges (NCJFCJ). The word Janiculum is from the Greek, meaning to look

backward and forward at the same time. The Janiculum project likewise examined the past and the future of the juvenile court, and produced a set of 33 recommendations for improvement of the juvenile court as an integral part of this country's justice system. The recommendations cover jurisdiction and structure, juvenile court procedures and programming, and system accountability issues (the full report, *The Janiculum Project Recommendations*, is available from the NCJFCJ).

One of the Janiculum report's programmatic recommendations states, "Services should address adequately the unmet needs of children of color. Minority offenders and non-offenders are

overrepresented and underserved in most juvenile justice systems. In general, over-representation increases in each sequential stage of juvenile justice system processing. Therefore, all jurisdictions should assess whether or not this situation exists using an established methodology. Where children of color are over-represented, jurisdictions should:

- implement training workshops focusing on race and juvenile processing;
- establish a system to monitor juvenile processing decisions; and
- develop guidelines to aid in reaching outcomes.

Use of risk assessments as part of the guidelines will also help greatly to reduce disproportionate minority representation in the juvenile justice system.” In addition to the Janiculum project recommendations, Dr. Howell discussed the history of the juvenile court, going back to the original “houses of refuge” which ironically were developed to protect

wayward youth from the harshness of the adult facilities. Likewise, the first juvenile court developed in Chicago 99 years ago was an attempt to separate juveniles from what European observers have described as America’s “violent and irrational” adult justice system. Unfortunately, the early juvenile court’s focus on urban inner cities (where minority youth lived in much greater numbers) led to an over representation of minorities even in the earliest days of the juvenile court.

Dr. Howell presented national statistics produced by the National Center for Juvenile Justice which clearly demonstrate the over-representation of minority youth throughout the system. These statistics also demonstrate the “amplification” of the disproportionality at each successive decision point in the system, reaching its greatest level at the point of waiver or transfer to adult court. Howell went on to say that analysis of data in some jurisdictions has shown race to be practically the sole determinant of long term incarceration. In some

jurisdictions, in fact, every juvenile detained or transferred to adult court has been a child of color.

According to Dr. Howell, researchers Bohsiu Wu and Angel Fuentes, in the Spring 1998 issue of *Juvenile and Family Court Journal*, describe three theories for the disproportionate confinement of minority youth. The first is based on overt systemic bias which matter-of-factly discriminates against minority youth. The second relates to contextual biases which focus disproportionately on minorities. Examples of such contextual bias include drug enforcement targeted at public housing projects or enhanced penalties for crack (as opposed to powder) cocaine. The third theory places the fault on critical decisions in the system which are based on stereotypical views of minority families or communities, such as being more dysfunctional or less supportive. Dr. Howell discussed how each of these scenarios plays out in the juvenile justice system.

Dr. Howell went on to dispel, through research and statistics, six common myths about juvenile crime and the justice system, demonstrating that:

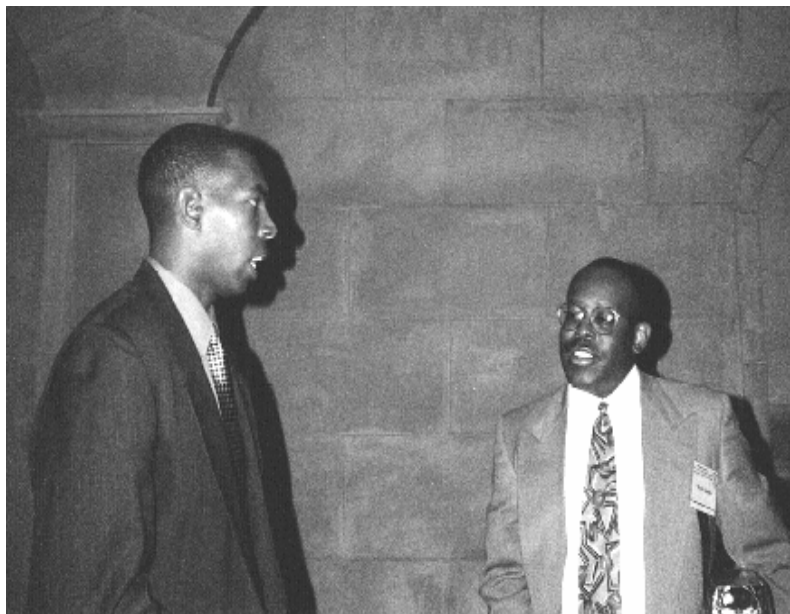
- juvenile violence is NOT the country's top crime problem;
- juveniles are NOT the driving force behind the increase in violence in the United States;
- predictions of a coming wave of "juvenile super-predators" are UNFOUNDED and inaccurate;
- the juvenile justice system CAN deal effectively with today's juvenile offenders;
- juvenile gang drug trafficking is NOT the cause of the recent increase in juvenile homicide; and
- transferring more juveniles to adult court will NOT reduce juvenile violent crime.

Exploring Minority Youth Over-representation

This general session was presented by a panel consisting of David

Gamble, National Council of Juvenile and Family Court Judges; Reginald

minorities in the juvenile justice system.



Reggie Morton and David Gamble discuss minority youth over-representation.

Morton, Community Research Associates, Inc.; Judge Kenneth Fields, Maricopa County Superior Court; Luis Ibarra, Friendly House; Chief Harold Hurtt, Phoenix Police Department; Richard Romley, Maricopa County Attorney; and Helene Abrams, Maricopa County Public Defender's Office. The presentations given by each panelist provided the audience with a baseline of common understanding regarding the history and issues related to disproportionate confinement of minority youth and the over-representation of

Reggie Morton began the panel by presenting background information on the definition and causes of disproportionate minority confinement (DMC) and minority over-representation (MOR). He discussed the federal DMC mandate passed in the 1988 and 1992 amendments to the Juvenile Justice and Delinquency Prevention Act, which requires that each state receiving federal juvenile justice formula grant funds must conduct an assessment to determine whether minority youth are over-represented in secure confinement and, if so, to take steps to address such disproportionality (see Appendix B of this report for information on the federal DMC requirement).

David Gamble discussed a 5-state DMC pilot project, conducted by the Office of Juvenile Justice and Delinquency Prevention, pointing out that DMC cannot be addressed solely at the state level. He stated that full-time DMC coordinators should be hired to provide constant, adequate attention to the issue, and that objective disposition guidelines should be established.

Mr. Ibarra added that a strategic “systems” approach is needed in addressing DMC, including developing appropriate goals in the earliest stages of program planning. To exemplify this need, he discussed the eagerness of schools and families to kick kids out who are difficult to deal with rather than working across systems to identify and address kids’ problems. Mr. Ibarra stated that all of us are part of the problem and we all need to be willing to be part of the solution.

Chief Hurtt gave the perspective of law enforcement, stressing the need for more prevention services, and pointing out that police need to expend as much effort keeping minority youth out of the system as they spend putting them in. He acknowledged that police need to do more to work with communities to address equity issues, and discussed the need to look at the type of police officers hired, as well as the numbers. He praised

community policing efforts which focus not simply on increased enforcement but on improving quality of life in communities. Finally, he recommended giving more opportunities for input from the community in the selection of new officers.

Judge Fields discussed the marked differences between courts in Phoenix in terms of minority over-representation, placement options and patterns, and even the stability of the families which come before the court. He stressed the need for continuing cultural competency training for all court personnel, as well as the need to maintain focused awareness and attention on DMC. Judge Fields urged judges to strive to partner with community agencies at an appropriate level that allows the judge to maintain the objectivity needed on the bench.

Rick Romley stressed the need for policy reform, again addressing the need for more prevention focus. He agreed with others that the over representation of minorities is beyond question, and stated that much of it is a result of poor state policies that fail to recognize the complexity of the problem and instead propose quick fix solutions.

Finally, Helene Abrams discussed the need to start with good data. She discussed the lack of resources for public

defenders and the sometimes inadequate legal representation minority youth receive as a result. She encouraged those in attendance to participate in cultural diversity training and discussed exercises to accomplish this.

A VISION FOR MINORITY YOUTH

Luncheon Keynote Delivered by Dr. Warren H. Stewart, Senior Pastor of the First Institutional Baptist Church of Phoenix

When the wicked rise, men hide themselves. . . Prov. 29: 18a(KJV); Then the Lord answered me and said: Write the vision; make it plain on tablets so that a runner may read it. For there is still a vision for the appointed time; it speaks of the end, and does not lie. If it seems to tarry, wait for it; it will surely come, it will not delay. Hab. 2:2-3 (NRSV)

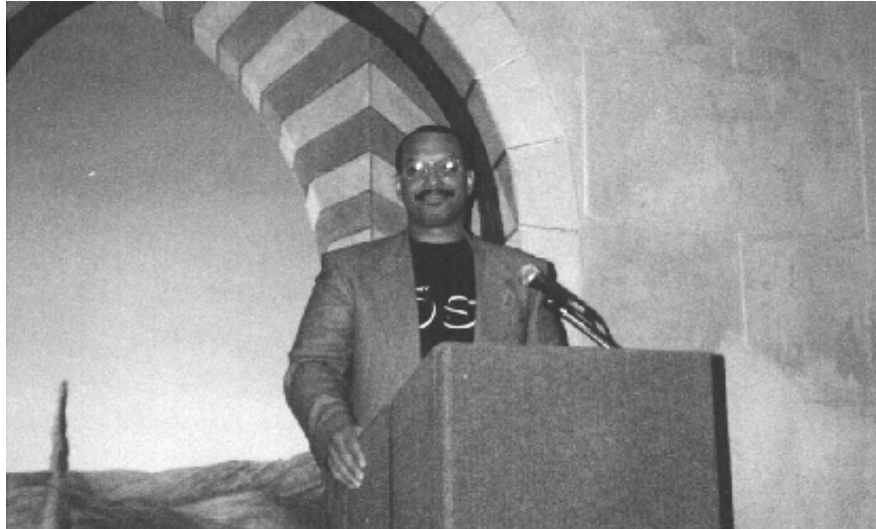
An ancient proverb announces, "Where there is no vision, the people perish. . ." I have said before that "the problem with America is no vision! Very little, if any, vision emanates from the White House, State House, Court House, School House, and in some cases, the Church House. And, please know that no vision leads to anti-social behavior!" Obviously, Arizona is blessed with a remnant of visionaries for our youth-at-risk, especially youth of color. Thank you for my invitation to endeavor to lift up A VISION FOR MINORITY YOUTH. It has been a challenging assignment to say the least.

A VISION FOR MINORITY YOUTH The Old Testament Prophet Habakkuk received a person-to-person reply from God after he complained about living in a violent society where wrongdoing was ever-present and justice seemed never to prevail. He argued with God that He was too pure and holy even to see how corrupt the world had become. Consequently, the times in which God's spokesperson lived had become vision-less. Nevertheless, God took the unjustified hit and answered, "Write the vision; make it plain on tablets, so that a runner may read it. For there is still a vision for the appointed time. . ."

THE FIRST GLIMPSE OF THIS VISION FOR MINORITY YOUTH IS AS A KNOWN SECTOR. A sector is "a distinct part, especially of society." Youth of color must first be *known* for who they are by those of us desiring to help them. This must be a knowledge beyond mere statistics, for numbers alone can be very misleading. *To know* in the Biblical sense often carries the connotation of being intimate with another person; to be as close as possible in relationship to another individual knowing virtually all there is to know about that person. I would dare say that part of A VISION FOR MINORITY YOUTH is that they must become a *known sector* by those service-providers who seek to serve them. Minority youth are one of the most *unknown* quantities in our communities. To chart a future for them they must become a *known sector* of our society by us! We must become intimately knowledgeable with their histories and heritages, their strengths and weaknesses, their hopes and hurts, their destinies and dysfunctions. Unless we *know* them, we cannot help them!

A SECOND PORTRAIT FOR MINORITY YOUTH IS THAT OF BEING A NEEDED SEGMENT.

There will be no vision for African-American, Asian-American, Native-American, and Latin-American youth until the "powers that be" firmly establish that minority youth, especially those at risk are *needed* in our neighborhoods. We all know what happens with individuals and possessions we no longer need. And



**Luncheon Keynote Speaker
Dr. Warren H. Stewart**

with human beings struggling to discover their own identity at an early age, if they get a hint that they are an *unnecessary* factor to the majority population, we deserve every negative behavior they act out against us. It has been said that much of the dysfunction of African-Americans is directly related to the fact that African-Americans as a racial group are no longer *needed* to bolster the economy as they were in slavery days. If that premise is true, then America has been trying to figure out what to do with Black folks since the Emancipation Proclamation in 1863! Moreover, there is no doubt that the neuroses of Native American people as a whole stems from being declared by U.S. governmental authorities as an *unneded* segment of American fabric by annexation and annihilation. That's why it is imperative that minority youth be seen by society as *a needed segment* for the well-being of our nation. Youth of color must hear loudly and clearly backed by tangible evidence from us, "WE NEED YOU!" If not, they'll drown out their neglect and needlessness with their rap music, punk rock and screams of social suicide. Those of us concerned about minority over representation and disproportionate minority confinement must undermine the idea that minority youth are dispensable, disposable, and destructible.

A THIRD VIEWPOINT IN A VISION FOR MINORITY YOUTH IS THAT THEY MUST BE THE NURTURED SOULS. *To nurture* is "to feed and protect; to support and encourage; to train; and to educate." All human beings are essentially spiritual beings in need of *nurture*. Experts on Generation X have revealed that today's young people constitute the most spiritual generation ever. But, *spiritual* is not necessarily Christian or Muslim or Jewish or Native American religion. *Spiritual* for our youth may equate to occultism, Satanism or extremism. However, it is my contention that as spiritual beings we all have *souls* that need to be *nurtured*, especially our youth at risk. To picture A VISION FOR MINORITY YOUTH, we must commit to *nurture* them. That entails providing for them all of the resources that they need to grow and develop. It involves protecting them from the forces in society that would imprison their minds long before they are penalized by our juvenile justice system. *Nurturing* the future leaders of our tomorrow necessitates encouraging and instilling in our "often-labeled" youth an irresistible reason to excel. These *nurtured souls* must receive our caring, compassionate and concerned support. We, as individuals and groups-families, friends, faith fellowships,

educational institutions, social agencies, volunteer organizations and juvenile justice systems are mandated by God to parent rather than patrol, convince rather than convict, inspire rather than incarcerate, and nurture rather than negate, first and foremost, our minority youth. And, of course, *nurturing* often includes correcting; but it is always correcting that creates the climate for transformation and re-direction. Let's keep the vision that our minority youth will be *nurtured souls*.

FOURTHLY, I ENVISION OUR MINORITY YOUTH BECOMING KNOWLEDGEABLE CITIZENS. We will fail ourselves and our youth if they are not equipped with the basics for success beyond survival. "Survival of the fittest" is not enough *knowledge* to succeed in our times. Most minority youth already *know* how to survive the perils of making it through another day in the ghetto. Moreover, survival alone may require someone else's un-survival! No, no; SUCCESS BEYOND SURVIVAL is our aim for youth of color. Envisioning youth as *knowledgeable citizens* obligates us to lead them into developing a value system that works for nearly everyone. Just this past week I eulogized a long-time member of First Institutional Baptist Church whose obituary read like a "Who's Who List." In the obituary of the late Moses Campbell, Jr., one line struck me as simple yet profound. It read, "He always inspired his family to work hard, do well in school, and treat people right." In other words, Mr. Campbell engaged in developing *knowledgeable citizens*, starting with his family. Can you imagine what future of our youth-at-risk would look like if they became knowledgeable citizens? One expert on the 21st Century predicted that to be successful in the next century, every youth must be trilingual. . . *knowing* English, Spanish, and being computer literate. Another Generation X analyst shared that these "would be" *knowledgeable citizens* require Four R's from those they will respect and follow: being Real, Relevant, Relational, and Rousing. We've got a long way to go to setting up the context to create *knowledgeable citizens* of color. At a meeting of our low-income housing project, the director of our neighborhood computer learning center informed our board that the average tenant's reading level is second grade. The challenge is to give birth to a generation of *knowledgeable citizens* who know how to experience SUCCESS BEYOND SURVIVAL.

And, lastly, A VISION FOR MINORITY YOUTH BRINGS FORTH A NEW SOURCE OF LEADERSHIP. There's no doubt about it, minority youth must constitute a significant portion of our leadership in the years 2000 and beyond. The "glass ceiling" must be shattered wherever it exists in order that 93% white males over 40 don't continue to dominate all of the policy-making in our world. Young people of ebony hue, creamy bronze, regal red, and soft yellow must transform "uni-color preponderance" into "multicolor participation" at all levels, especially at the top. A VISION FOR MINORITY YOUTH will change the M-O-R from Minority Over Representation to "Minorities as Outstanding Resource!" Then, D-M-C will no longer stand for Disproportionate Minority Confinement, but "a Developed Minority Core" of Leadership. What a day when our minority youth will be seen as a *new source of leadership!*

So there you have it: A VISION FOR MINORITY YOUTH. . . A KNOWN SECTOR. A NEEDED SEGMENT. NURTURED SOULS. KNOWLEDGEABLE CITIZENS. And A NEW SOURCE OF LEADERSHIP. Mind you, this VISION FOR MINORITY YOUTH can become a reality! Over 30 years ago I was a youth of color at risk, shot after breaking into a house, on probation for a year, known as the town rogue. But, thank God, I was a *known sector* to others; they encouraged me that I was *needed*; members of my family and church *nurtured* me back to

life; I went on to become a *knowledgeable citizen* with five earned degrees, and since age 17, I've been a *source of new leadership*. That's a VISION FOR MINORITY YOUTH IN THE FLESH.

Court community partnerships

Are we Making Culturally Competent Decisions?

Judges Louis Frank Domingues and Roxanne Song Ong of the Phoenix Municipal Court presented this session, which described bias and its impact on the court. The session also made a comparative examination of Anglo-, Hispanic-, African-, and Asian-American culture.

Background

Biased behavior in the courtroom - a deviation from the norm, a settled or prejudiced outlook - can influence the course of justice. Bias in the courts is well documented. Case outcomes are affected.

Many people, including men, but in particular non-whites and women, feel the effect of bias. Bias in the courtroom affects both defendants and professionals. For minorities, bias causes disparate treatment; sets lesser values on their rights and lives. For women, bias

fixes the role of the sexes; devalues women and women's work; perpetuates myths and misconceptions about women's social and economic realities.

Some instances of bias in the courtroom are active. They result in judicial actions that influence behavior and perceptions. Name-calling and remarks, judicial decisions, and administrative behavior sometimes reflect this active type.

Other instances of bias are passive; when bias is permitted to continue unchecked and without reprimand, or when attention is allowed to shy away from priority issues to biased ones. This type of bias usually exerts subtler but nonetheless critical pressure. Either type of bias hinders the effective functioning of the legal and judicial system. It has profound effects in the courtroom. It undermines credibility and weakens the positions of attorneys, witnesses, plaintiffs, and defendants. Bias decreases confidence in attorneys and witnesses, and undercuts the professionalism of judges, attorneys, and court staff.

It restricts the value of facts and evidence (both prosecution and defense); emphasizes artificial weaknesses rather than natural strengths.

Several studies in Washington State, California, and elsewhere across the country clearly document disparity in the way different people are treated within the judicial system based on gender, race, and ethnic or cultural heritage. Further the perception of disparate treatment varies between different groups in our diverse society.

Gender bias exists when decisions are made or actions are taken based on preconceived notions about the nature, roles, and abilities of men and women rather than upon evaluation of each individual situation. Gender bias also is evident in society's perception of the value of women's and men's work, and the myths and misconceptions about the social and economic realities of women's and men's lives. Gender bias can be reflected in individual actions as well as in cultural traditions and institutional practices.

Examples of gender bias in the courts include the attitude that domestic violence is a family matter, custody decisions that assume all mothers are better child care givers than fathers, and the belief that a female witness is less credible than a male witness. Individual behaviors such as telling jokes that demean women and addressing women in the courtroom by first name while addressing men by title and surname also reflect gender bias. The Supreme Court in *United States v. DeGross* (960 F.2d 1433, 1438, 9th Cir.1992) stated, "[G]ender discrimination in the judicial system [is] a stimulant to community prejudice which impedes equal justice for women."

This session dealt with a look at how individuals involved in the criminal justice system view their respective roles as they relate to the dynamics of a multi-cultural society. The session included a multimedia presentation incorporating the use of music, video vignettes, numerous interactive activities, games, and exercises, handouts and overhead presentation of information and an open

discussion with question/answer format. The session involved extensive audience participation, but only so far as they chose to voluntarily participate. Most exercises provided an opportunity for all members of the audience to be as interactive as they desired. The materials and video vignettes addressed the issues of cultural disparity and possible conflicts as they might occur at any point in the criminal justice system. Situations involving criminal arrest, detention, intake, disposition and placement were examined. The responsibilities and roles of judges, attorneys, probation officers, and law enforcement officials were discussed, especially as they relate to the individuals present.

The session began by targeting the particular issues, relevant to the topic, that the participants wanted to address and why they chose to attend this session and the conference as a whole. As the activities unfolded, the final portion of the session revisited those same target issues to examine what tools, techniques or practices discussed and shared could be

assimilated and used effectively by the participants in their respective jobs. Samples of the issues targeted were:

- Stereotypes that we consciously/unconsciously observe.
- Prejudgments
- Unfair treatment
- What decisions are you making?
- What factors do you consider?
- What techniques do you use?
- How can we prevent these negative aspects from affecting our jobs/lives?
- Fears that our own family/friends may be affected.
- How do we effectively educate and promote cultural awareness and treatment of all? and,
- What can we do to be more culturally sensitive, profession-ally and personally?

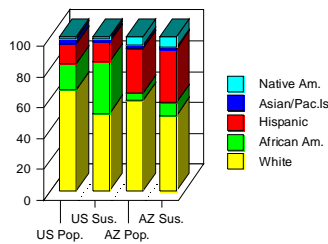
Education's Impact on Minority Youth Over-representation

The panel for this session included Brian Bumbarger, Prevention Research Center, Pennsylvania State University; Dr. Josephine Pete, Phoenix Union High School District (Phoenix, AZ); and Yolanda Olbarria, Dysart Unified School District (El Mirage, AZ).

Presenters covered the extent of disparity in the discipline of minority students; the political and legislative climate driving the increase in punitive and exclusionary discipline measures; the relationship between the education and juvenile justice systems; the potential impact of exclusionary discipline on minority youth in AZ and nationally; and recommendations for a more equitable and effective system of school discipline.

Traditionally, researchers and practitioners have taken up one of two theories regarding the cause of minority over-representation in the juvenile justice system. One theory blames a biased system, or biased

National & Arizona Suspensions by Race



individuals within the system, for unfairly targeting minority youth. The other camp contends that minority youth commit a disproportionate amount of crime, and thus they are more likely to interact with law enforcement and potentially enter the justice system. Depending on which theory is held, the approach to reducing minority over representation is to either a) fix the broken system (or individuals), or b) reduce the amount of crime committed by minority youth.

In actuality, MOR must be addressed by a combination of these two strategies. But to address the number of minority youth who come into contact with the juvenile justice system, we must look outside that system to other areas of youths' lives which may prevent or predispose them to future delinquency. One area that holds great potential is the education system.

Education has been called the "great equalizer" in describing its capacity to allow an individual to rise above other negative factors in his or her life. For example, no other single resource is as effective at negating the cycle of poverty than a good education. Unfortunately, for many minority students a biased education system and ineffective, exclusionary discipline policies thwart the opportunities for an effective education.

Research and statistics have demonstrated consistently that minority students are disproportionately suspended, expelled, given corporal punishment, and inappropriately placed in special education. This disparate treatment not only robs them of the potential benefits of a good education, but also increases their risk of experiencing other negative outcomes.

Schools are increasingly turning to suspension and expulsion as a means of control and discipline. By disproportionately disciplining (excluding) minority students, the system effectively creates two separate "tracks" of students. Placement in the "problem" track has

amplifying negative effects on students, including:

- Increased detachment from school
- Self-fulfilling prophecy of failure
- Cycle of misbehavior and discipline
- Academic failure
- Dropout
- Delinquency/Contact with the Justice System

Presenters discussed some steps schools can take to reduce the disproportionate discipline of minority students, including:

- Establish clear, unambiguous discipline policies which specify offenses and sanctions
- Ensure due process, including appeals and ombudsman
- Educate students and parents about discipline policies
- Implement alternatives to exclusionary discipline
- Employ a representative and culturally competent staff

- Focus on prevention, especially in the early grades
- Move beyond “color-blind” – recognize that there are indeed ethnic and cultural differences in learning and teaching styles
- Make school programs and services relevant and accessible to minority students and families and
- Address high truancy and dropout rates among minority populations
- Develop a system to re-integrate adjudicated youth back into the education system
- Provide opportunities for minority families to have positive interactions with the school.

Dr. Peete provided an urban administrator’s perspective, describing some of the interventions mentioned above which have been implemented in the Phoenix Union School District, and the positive affects they have had on student discipline.

Issues for At-Risk Minority Families

This session examined issues of dependency and domestic violence and was presented by a panel including Judge Francisca Cota, Phoenix Municipal Court; Ms. Angela Cause, Court Appointed Special Advocate (CASA) Program; Commissioner Penny Willrich, Maricopa County Superior Court; Dr. Michael Bayless, Psychologist; Sue Beastall, Family Therapist, and Ms. Serena Christion, City of Phoenix Assistant Prosecutor.

Yolanda Olbarria discussed the latest research on brain development, and its implications for reducing school violence and disruption. She described the limited window of opportunity that exists in the very early (pre-school and early elementary) years for developing certain language and cognitive skills. Ms. Olbarria stressed the importance of early intervention during this crucial period of rapid brain development as a means of teaching children prosocial competencies. The panel discussed the specific issues faced by at-risk minority families as they relate to dependency, delinquency, domestic

violence, advocacy, and rehabilitation. The audience broke into discussion groups representing advocacy, judiciary, mental health, family therapy, and law enforcement to explore what approaches and remedies can be taken at all levels. The groups were given a series of realistic scenarios involving minority clients and asked to discuss different approaches that could be taken with each.

The following article was prepared by Judge Cota for the workshop.

Domestic Violence, Dependency And Delinquency And Over-Representation Of Minority Youth In The System, by the Hon. Francisca Cota

Over-representation of Minority youth in the Juvenile Justice System is a problem that cannot be ignored. As the general minority population increases, the disparity in the Juvenile Justice System population will also increase.

There are many factors to be explored when addressing this problem. This discussion addresses three major areas of

concern: Domestic Violence, Dependency and Delinquency. The focus is on the impact and approaches that can be taken at all levels of involvement in the Juvenile Justice System.

One need only look at the current National Statistics on Children in the Juvenile Justice System to see that across the nation minority youth consistently are over represented when compared to the general population of their community.¹

A number of factors come to light when looking at this problem. The Juvenile Justice System, the school system, law enforcement practices, social services and other community based organizations all factor into the problem and the solution. However, there are other factors that cannot be ignored including, poverty, substance abuse, family history of criminal behavior, child abuse, and domestic violence.

Early studies show that when comparing delinquent and non-delinquent youth, a history of family violence or abuse is the most significant difference between the two groups.² Approximately 3.3 to 10 million children annually witness their parents'

violence.³ While not all children are affected by domestic violence in the same way, the impact on the child can affect all aspects of the child's behavior.

"Children may become fearful, withdrawn, anxious and confused, suffer from disturbed sleep, difficulties at school and problems in making friends.

Adolescents may act out or exhibit risk-taking behaviors such as drug and alcohol use, running away, prostitution, pregnancy, or criminal behavior. Young men may try to protect their mothers or become abusive to their mothers."⁴ The violent behavior learned in childhood may continue once the child is an adult.

"Men who have witnessed their parents' domestic violence are three times more likely to abuse their own wives than children of non violent parents, with the sons of the most violent being 1000 times more likely to become wife beaters."⁵

The impact of domestic violence goes beyond the immediate injured victim.

"While many children turn to their parents for comfort



Panelists and participants discuss state and federal legislation

from the stresses of life, children living in violent homes cannot rely upon this ultimate source of support. Domestic violence is a serious social problem that not only jeopardizes the safety of the family but also carries a social cost to society. Given the vast literature documenting the social impact of family violence on all family members we must acknowledge that the physical target is not the only victim of domestic violence."⁶

Over 3 million (3,195,000) children were reported for child abuse and neglect to Child Protective Services (CPS) agencies in the United States in 1997. Over one million (1,054,000) children were confirmed by CPS as

victims of child maltreatment.⁷ These case numbers reflect only those that were reported.

Anti-social tendencies emerge early in the lives of



neglected, abused, and unloved youth. Once these youngsters leave home and school, they are difficult to save from a street culture of substance abuse. The Phoenix Violence Prevention Initiative studied domestic violence in Arizona. They report that "Because exposure to many risk factors (poverty, abusive parents, poor health) multiplies the probability that a child will experience difficulties later on (delinquency, drug use, truancy), it is important to provide early childhood programs that offer a sufficiently broad array of services to simultaneously address a number of risk factors."⁸

George Logan of the Administrative Office of the Courts speaks with Chief Justice Zlaket.

In 1997, the Child Welfare League of America conducted a study regarding the correlation between children reported abused and/or neglected and the arrest of children in pre-teen years. Following the study, CWLA in connection with FIGHT CRIME: INVEST IN KIDS expressed support for federal legislation that included investment in prevention and early intervention programs for children at risk.⁹

At-risk minority children have to face day to day life in crisis. There is consensus in our society that children are owed basic obligations and responsibilities. Among the most basic of these are financial support, protection of their physical

and emotional well-being, an opportunity for educational development, guidance and an environment in which they may develop sound character.¹⁰

States statutes codify these responsibilities to children. They identify several areas where children come within the state's jurisdiction including child neglect, dependency, in need of supervision, child abuse, and delinquency "By bringing these juveniles within the jurisdiction of the state, it (the state) attempts to provide for the juveniles needs where the parents have failed."¹¹ But What

effect does this involvement have on minority families?

The impact of the states' involvement on minority families is significantly different than it is on non-minority families.

"In a great many cases, especially with respect to minority families, parents lack certain essential resources for effective parenting. . . On the surface, it appears that minority parents do not identify with the general expectations regarding parenting responsibilities. However, a closer examination of their attitudes, values, desires, and expectations about their children's success reveals that they very strongly want their children to receive a good education, to graduate from school, to behave appropriately, to 'say no' to drugs, to refrain from delinquent and criminal behavior, to find and work at a meaningful job."¹²

While disparity in confinement of minority youth continues to be intolerable, it is important to recognize the efforts that parents and others are making to keep our children safe and free from criminal activity. By working together we can all help a child grow into a productive member of our community.



Tami Danze, Patti Cordova and Karen Lodoen, all of the Administrative Office of the Courts, assist with registrations

ENDNOTES:

1. See in general, 1988 Amended Juvenile Justice and Delinquency Prevention Act requiring a state receiving federal funds to count the number of minority youth in secure juvenile facilities and assess the extent to which their representation exceeded the percentages in the general population.
2. Miller, G. Violence By and Against America's Children," *Journal of Juvenile Justice Digest*, XVIII(12)1989
3. Carlson, B.E. "Children's Observations of Interpersonal Violence" in *Battered Women and Their Families: Intervention Strategies and Treatment Programs* (1984, See also Peter Jaffe, David Wolf & Susan Kaye Wilson, "Children of Battered Women," 1990)
4. "Effects of Domestic Violence on Children" Center for Women's Health, Domestic Violence team (1996)
5. Straus, M.A., Gelles, R.J. & Steinmetz, S., "Behind Closed Doors" Doubleday, Anchor (1980)

6. Stone, Audrey E. & Fialk Rebecca J. "Criminalizing the Exposure of Children To Family Violence. Breaking the Cycle of Abuse", See also The Family Violence Project of the National Council of Juvenile and Family Court Judges, "Family Violence in Child Custody Statutes: An Analysis of State Codes and Legal Practice," 29 *Fam.L.Q.* 197,223 (1995)
7. Wang, C.T. and Daro, D. "Current Trends in Child Abuse Reporting and Fatalities. The Results of the 1997 Annual Fifty State Survey" (1998)
8. See Generally, Phoenix Violence Prevention Initiative Report (1997)
9. See Generally, Child Welfare League of America. Sacramento County. California Study, 1997
10. *Juvenile and Family Court Journal*, Vol.41 P.39(1998)
11. *Ibid*
12. *Ibid*

**Making a Difference:
Learn How to Shape
Juvenile Justice**

This session was presented by a panel including Dennis Pickering, Arizona Youth Associates; Rep.

John Lored, Arizona House of Representatives; David Doi, Executive Director of the Coalition for Juvenile Justice; Beth Rosenburg, Children's Action Alliance; Rep. John Verkamp, Arizona House of Representatives; and Heidi Hsia, Ph.D., Federal Office of Juvenile Justice and Delinquency Prevention.

Embedded within a solutions-based conference, this session was designed to help participants develop strategies to effect change in their communities. To serve this end, a diverse panel was assembled representing public figures and advocates from the local, state and federal levels.

The discussion began with a look at policies affecting disproportionate minority confinement (DMC) at both the state and federal levels. On the national scene, where legislation exists that explicitly directs states to address DMC, Heidi Hsai outlined the accomplishments made over the past decade and David Doi discussed potential legislative changes and their effects on DMC. At the state level, Arizona has no legislation that specifically addresses the issue of minority confinement and minority

over representation (MOR). Despite this however, state statutes do have an impact on the issue. Rep. John Verkamp discussed the existence of lingering institutional racism that, although not present in statute, still periodically appears in the practices of the juvenile justice system. Rep. John Loredó illustrated some examples of unintended consequences of statutes and ordinances that have deleterious effects on minority communities.

With the current state of DMC in the State and around the nation well defined, Beth Rosenberg spoke on how best to effect policy changes. She indicated that by doing nothing, communities actually endorse the status quo. For those who want to promote change, it is important to know who makes policy, to feel empowered to call on them and to hold them accountable for their actions. The panel supplied participants with information on how to contact their representatives in the Legislature and Congress, as well as strategies to use when talking to them. The audience was then divided into working groups to

develop questions to present to the panel.

While information sharing was a priority, more important was the panelists' attempt to empower participants. Repeatedly, several panelists emphasized that local input is necessary to make policy makers aware of DMC and MOR issues. Participants left with the tools necessary to make a difference in minority over representation.

Culturally competent treatment programs

False Images? Minority Youth in the Media

The final plenary session of the conference was a panel presentation which examined the media's portrayal of juvenile crime in general, and minority youth in particular. This lively and interactive panel discussion described the potentially damaging effects of the media's misrepresentation of the scope of crime committed by minority youth.

Panelists representing television, radio and print media explained the process by which the media select stories to cover and how news items are prioritized and presented. The panel of presenters

included Frank Camacho, Channel 3 News; Arthur Mobley, KMJK 107FM; David Doi, Coalition for Juvenile Justice; Richard De Uriarte, The Arizona Republic; Jeff Scott, Channel 10 FOX News; and Linda Williams, FOX 10 News Anchor.

The media's portrayal of crime often focuses on the most serious and violent offenses committed by juveniles, including gang-related drug trafficking and homicide, even though these offenses make up a very small percentage of the total crimes committed. Likewise, the media's depiction of these juvenile crimes often represents offenders who are African American or Hispanic.

Unfortunately, the public's thirst for the gruesome and shocking will likely continue to drive most mainstream media outlets to disproportionately cover stories involving youth engaged in serious crime. However, panelists did reflect a growing awareness within the media of the damaging impact this trend has had on minority communities and this country as a whole, and demonstrated a genuine concern for addressing the issue.

Much of the panel discussion centered around the 1997 Annual Report of the Coalition for Juvenile Justice, *False Images? The News Media and Juvenile Crime* (available from the Coalition by calling 202-467-0864). The Coalition for Juvenile Justice is the federal advisory board which represents state juvenile justice advisory groups in each state and is charged with the responsibility to provide annual recommendations to the President, Congress and the Administrator of the federal Office of Juvenile Justice and Delinquency Prevention. In its 1997 report, the Coalition added the following recommendations to the media:

- that the media cover the activities of young people in a more balanced and responsible fashion, addressing both the positive and negative things youth do, and without distorting the threats posed by young Americans to the rest of society;
- that the media cover the juvenile justice system in a more comprehensive

fashion, covering ordinary juvenile and family court proceedings, as well as the more sensational cases, and addressing the operation of the system and its need for resources, alternatives, and volunteers, as well as the occasional focus on individual proceedings;

- that the media cover all crime, including juvenile delinquency, in a more balanced and in-depth fashion, looking at property offenses, as well as violent crime, and putting offenses and incidents in context. Such contextual reporting should include the presence of substance abuse, the history of family violence, and the sources of weapons used in crime; and
- that the media concentrate more on “civic or public journalism,” examining in a more comprehensive way the systemic and policy implications

of issues involving children, youth and families, and exploring the possible solutions to the problems facing young people and their families. In addition to responding to the recommendations of the report, several of the panelists also gave encouragement to participants that they can make a difference in what the media covers and how it is covered.

Participants were urged to contact their local media outlets and provide constant feedback on the types of stories they would like to see covered.

Panelists assured those in attendance that just as public opinion drives programming through ratings, public opinion has the power to change how the media portrays minority youth and crime. Finally, the panelists reflected agreement on the need to increase the numbers of minorities working in all types of media, at all levels.

Consultant for this report was Brian Bumbarger, Senior Associate for Active Endeavors, Inc. For more information on the specific content of any the sessions or presentations, the reader is encouraged to contact the presenters directly, or contact the:

*Arizona Supreme Court
Commission on Minorities
1501 W. Washington St., Suite 410, Phoenix, Arizona 85007*

Appendix A:

Background on the Arizona Supreme Court Commission on Minorities (COM)

adapted from Arizona Supreme Court Commission on Minorities Progress Report 1994-1996

In January, 1986 following a comprehensive examination of the legacy of racism and discrimination in the legal profession, the American Bar Association Task Force on Minorities in the Legal Profession, under the chairmanship of Phoenix attorney Calvin Udall, issued a report detailing the lack of opportunities for minorities as lawyers and judges. The report offered various corrective measures, including:

Recommendation 4. That the association take concrete actions with regard to the judiciary in order to..

4.1. Increase opportunities for minority lawyers to serve as federal and state judges at all levels.

Later in Arizona, Calvin Udall and a small leadership group of legislators, judges and lawyers organized themselves as the Ad Hoc Committee For Minority Opportunities in the Arizona Judiciary. In December, 1989 they met with Chief Justice Frank Gordon to discuss the need to create opportunities for minorities in the state judiciary. On April 10, 1990 the Ad Hoc Committee submitted a letter to Chief Justice Frank Gordon urging the Supreme Court to: *... take the lead in creating an environment that will result in the appointment or election of more minority attorneys to judgeships and commissioner positions, and to the hiring of more minority law schools graduates as law clerks, in the state court system.*

The Supreme Court responded on June 20, 1990 by issuing Administrative Order 90-22, establishing the Commission on Minorities in the Judiciary, and declaring its commitment to increase the racial and ethnic diversity within the Arizona judiciary at all levels. Prof. Paul Bender was appointed to chair the 17 member Commission, which included Calvin Udall and Judges Michael Dann and Cecil Patterson Jr. who were members of the Ad Hoc Committee. The Commission focused its energies on removing the barriers that were perceived to hinder the appointment of appellate and superior court judges through changes to the judicial nominating process. The Commission assisted in the formulation of and supported a constitutional amendment that, in part, restructured the judicial nominating process by expanding the membership and revising the method of appointing nominating committee members. More importantly, the amendment included language mandating that the diversity of the state's population should be considered in the selection of nominating committee members and judicial appointees. The Commission became inactive following Paul Bender's resignation in September, 1993.

In May, 1994, Chief Justice Stanley G. Feldman reactivated the Commission with a significantly broadened mandate. The membership of the Commission was expanded to 19 with the appointment of Gerald Richard as Chair and ten new members. In addition to the continuing responsibility to develop strategies, programs and policies to increase diversity in the judiciary, the broader mandate directed the Commission to:

1. achieve a meaningful increase in the number of vendors under contract to the Administrative Office of the Courts who employ minority staff and professionals to provide specialized psychological, and therapeutic treatment services for minority youth offenders;
2. where appropriate, encourage a meaningful increase in the number of minorities employed throughout the Judicial Department as clerical, administrative and professional staff with priority given to efforts to recruit qualified minority juvenile and adult probation officers and staff;
3. coordinate with other public and private sector programs that seek to address the problems created by the over-representation of minority youth in the juvenile justice system;

To effectively address the broad spectrum of issues, the Commission members organized themselves into the following four work groups with policy responsibilities that conform to the major mission topics:

1. Diversity in the Judiciary
2. Work Force Diversity
3. Juvenile Treatment Services
4. Linking Public and Private Initiatives

Following is the report of the Juvenile Treatment Services work group and their activities for the period June, 1994- March, 1996.

Juvenile Treatment Services

MEMBERSHIP:

Jon Perez, Ph.D., Chair, Claudeen Arthur, Yolanda Saldate, Penny Wilrich

As a preamble, the work group wishes to acknowledge the ongoing invaluable assistance of George Logan and Donna Noriega for their interest, full cooperation, and detailed knowledge of the juvenile justice system and involved agencies. While not members of the work group by tasking or job description, they have nonetheless voluntarily acted in such capacities to the benefit of the work group and the commission.

STATEMENT OF WORK GROUP GOALS

The work group on Juvenile Treatment Services was tasked with three goals by the Commission:

1. Develop a problem statement
2. Provide analysis of the problem(s) presented
3. Make recommendations to address the problem(s)

The first task the work group defined for itself was to decide what it could reasonably accomplish within the time frames, given the number and complexity of multi-ethnic juvenile treatment issues readily identifiable. Among the most salient in the work group's opinion:

1. Over-representation of multi-ethnic youth within the juvenile justice system.
2. Difficulty with and/or resistance of multi-ethnic youth to avail themselves of treatment alternatives and to successfully complete such treatment.

3. Resistance of agencies to accept and treat multi-ethnic populations.
4. Minimal communication and cooperation among the manifold levels of bureaucracy, both governmental and private, related to the delivery of youth treatment services.
5. Lack of understanding and training for agencies regarding cultural diversity and appropriate treatment for diverse cultures.
6. Lack of apparent public awareness, understanding, or concern regarding multi-ethnic issues generally and multi-ethnic juvenile treatment specifically.

Any one of these six problems areas could easily occupy the work group's efforts for the year. After discussion, it was decided the work group's efforts could best be utilized in primarily gathering information on these six problem areas, providing preliminary analyses and then making recommendations for longer term study or intervention in those areas. Defining and approaching the problem areas in this way would also accomplish the tasks defined by the Commission.

What follows first is a status report on each of the six major problem areas defined by the work group. Then, a recommendation for a more detailed data gathering effort will be presented.

STATUS REPORT BY PROBLEM AREA

1. Over-representation of multi-ethnic youth within the juvenile justice system. This is the area where hard data is critical. Simply defining the extent to which our multi-ethnic youth are referred to the system is important to gauge level of need and/or level of actual representation. Not only is data required for Arizona, but also for the nation. This is not a problem specific to Arizona and there may be other states with other programs which may help guide our own interventions. While we may have to tailor our interventions to the specifics of our state and its political and social climate, having information from other places may save duplication of effort and help us formulate more appropriate programs here.

The subcommittee requested data from the Administrative Office of the Courts (AOC) and Department of Juvenile Corrections (DJC). The AOC provided demographic information on Arizona's juvenile population as well as juveniles processed by the court system. The data indicated multi-ethnic youth were referred to the system at higher rates than their representation in the population, and were less likely to complete various probation programs. Further, multi-ethnic youth now comprise 42% of the youth population in the state. This data may be obtained from *Arizona Juvenile Population Demographics* and *Juveniles Processed in the Arizona Court System FY 94*, both published by AOC Juvenile Justice Services Division.

2. Difficulty with and/or resistance of multi-ethnic youth to avail themselves of treatment alternatives and to successfully complete such treatment. Beginning with the various presenters to the Commission, then later through interviews with providers and juvenile justice officials, it is apparent that while multi-ethnic youth are disproportionately

represented in referral rates, they are also less likely to either enter or successfully complete counseling/treatment.

At this stage of the subcommittee's investigation, it would appear there are several possible factors affecting this situation. Among them:

- a. Lack of financial resources. Any type of co-pay may be a financial burden. It's reported a co-pay of even \$5-\$10 can be a great financial burden for many of the families. This lack of financial resources may also be felt in not being able to provide transportation, etc. for counseling sessions. While referrals through AOC agencies do not require co-pay, we have found some courts using agencies or referrals not contracted with AOC for various reasons, including lack of available referral agencies in rural areas and lack of openings that cause long waiting lists in urban areas.
 - b. Lack of acceptance by treating agencies. This is primarily an issue for residential treatment referrals, but it may also affect outpatient referrals as well. This will be more fully explained in #3 below.
 - c. Lack of culturally sensitive programs. This is an area where there is much debate. While there are numerous providers and contractors, most offer fairly standard "traditional" treatment approaches, i.e., talk therapies, 50 minute hours, weekly sessions, etc. Further, multi-ethnic therapists are limited as are programs for specific cultural groups. The debate (at least the major one) is whether and to what extent ethnic identity is required or desirable for treatment. The work group has not decided this issue at this time.
3. Resistance of agencies to accept and treat multi-ethnic populations. This is an issue that is very troubling to the work group. Based upon reports from participating therapists/contractors (N= 12) who spoke only on condition of anonymity, agencies are more hesitant to accept multi-cultural clients than white clients, particularly for residential care. The providers stated multi-cultural youth are usually the most difficult and resistant clients to treat. They stated they had liability concerns about treating such clients and a couple said they would prefer not to treat multi-cultural clients due to these difficulties.

To illustrate: A multi-cultural boy was accepted for group home placement. Within the week of admission this young man had somehow gained access to a pellet gun and shot out windows of several neighborhood houses. This caused the neighbors to seek to have this home's license revoked or the program moved. It took almost a year for things to calm. While it could have been a child of any ethnicity, and the person reporting readily admits this, it was the neighbors and neighborhood that had a very negative reaction. The person reporting stated they purposely attempted to avoid accepting youth of a particular ethnicity for "a long time" in order to not further aggravate their neighbors.

4. Minimal communication and cooperation among the manifold levels of bureaucracy, both governmental and private, related to the delivery of youth treatment services.

This area includes courts, probation, police, social service, behavioral health, and various other private and public sector agencies involved with youth treatment. While agencies do communicate with one another on individual cases, there does not appear to be regular communication regarding issues of mutual concern, i.e., multi-ethnic youth. There are also other governmental commissions, task forces, etc. that are doing similar work to our own and about whom we have no knowledge, nor they of us. In comparison, an example of positive communication and cooperation is the standardization of state contracting for juvenile services.

5. Lack of understanding and training for agencies regarding cultural diversity and treatment variables for diverse cultures. It is the understanding of the subcommittee that while there are contractual clauses for the delivery of appropriate multi-cultural treatment services by contractors, there are no mechanisms to insure such treatment. It is further understood that governmental organizations involved with youth adjudication and disposition do not have any specific requirements to be trained in cultural diversity or competency.
6. Lack of apparent public awareness, understanding or concern regarding multi-ethnic issues generally and multi-ethnic juvenile treatment specifically. This last concern will not be addressed specifically until the subcommittee has the necessary data and recommendations to propose public awareness strategies.

At the suggestion of the AOC and the work group, and with the full support of the Commission, it was recommended that a questionnaire to be sent to all AOC contractors and a representative sample of referred juveniles. In June 1995, the Juvenile Justice Services Division engaged Vicki Romero & Associates to conduct a provider survey. The results were submitted in August, 1995 in a final report that substantiated some of the anecdotal information identified by the work group, and surfaced other critical service delivery problems, e.g., the extremely high turnover rate of direct care staff, and lack of cultural diversity training for direct care staff.

Based on this data, as well as other available database analyses, the Commission makes the following recommendations. It is expected subsequent recommendations will be developed based upon further data gathering and analyses.

RECOMMENDATIONS

1. Develop curricula for and implement ongoing statewide diversity training for:
 - a. The executive, administrative and direct service staff of contract providers.
 - b. The judicial, administrative and probation service staff of the juvenile court and the Administrative Office of the Courts Juvenile Justice Services Division staff.
 - c. The executive, administrative and direct service staff of the Department of Juvenile Corrections.
2. Establish a task force composed of court officials, Department of Juvenile Corrections, law enforcement, contracted service providers, clients, and interested community members to develop culturally appropriate treatment strategies for involved multi-cultural

youth, and assist in recruitment of bi-lingual, multi-cultural individuals for direct care positions within provider agencies.

3. Require contracted providers to provide information via annual reporting regarding the ethnic/gender mix of clients as well as staff.
4. Continued and increased financial and other support for innovative and/or experimental programs addressing multi-cultural needs.
5. Provide support directly through the Administrative Office of the Court or via contract to recruit qualified multi-ethnic applicants for direct care positions with treatment service providers.

Appendix B:

Background on Federal Disproportionate Minority Confinement Amendment

Prepared by Jonas Osio Mata, Oklahoma Office of Juvenile Affairs

Experience, national data sources and other studies, have documented the fact that minority offenders are over-represented in secure facilities across the country. While the research literature is far from conclusive with regard to the effect that race or ethnicity may play in influencing the differences in the handling of majority and minority youth within the juvenile justice system, it does suggest that racial or ethnic status may well be a factor influencing decisions in certain jurisdictions and at particular decision points during certain time periods.

1987 National Coalition for Juvenile Justice Action

In 1987 the National Coalition for Juvenile Justice (then the National Coalition of state Juvenile Justice Advisory Groups) issued its third report entitled *An Act of Empowerment* urging Congress to hold regional hearings on the issue of differential incarceration rates of minority youth.

1988 Coalition and OJJDP

The Coalition's 1988 Spring Conference in Jackson, Mississippi, focused on differential processing within the juvenile justice system citing possible causes. The discussions from that conference were incorporated into the Coalition's fourth annual report entitled *A Delicate Balance* with the principle theme being trends in over-representation and recommendations to the President, Congress and the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to take specific actions to the disproportionate presence of minority youth throughout the juvenile justice systems of our nation. In this same year, OJJDP contracted with the University of Wisconsin and Portland State University to review the research literature addressing the issue. The resulting report entitled *Minorities in the Juvenile Justice System* concluded substantial evidence exists indicating race plays a direct and indirect role in decisions made by juvenile justice officials.

1988 Congressional Action...

During the 1988 reauthorization of the JJDP Act, Section 223(a)(23) was amended by Congress to establish a new requirement that each state's Formula Grant Plan address efforts to reduce the proportion of juveniles confined in secure detention, secure correctional institutions, adult jails and lockups, and other points in the juvenile justice process who are members of minority groups. Minority group populations are defined as members of the following groups: Asian Pacific Islanders; African Americans; Hispanics; and, American Indians.

The statutory requirement for states to address efforts to reduce disproportionate confinement of minority youth was in response to recommendations and information provided to the Committee on Education and Labor which revealed that Hispanic male juveniles are confined at a rate of 2.6 times that of white male juveniles. For black male juveniles, the comparison with white male juveniles produces an even higher ratio of four to one. Between 1977 and 1983, the number of confined minority youth increased by 26 percent, even though the number of these youth being arrested was declining.

As stated in federal regulations, the amendment and implementing instructions require each state participating in the formula grants program to assess and address the over-representation of minority youth in all types of secure facilities.

Section 223(a)(23) of the Juvenile Justice and Delinquency Prevention Act of 1974, as Amended (Public Law 93415) requires states to address efforts to reduce the proportion of youth detained or confined in secure detention facilities, secure correctional facilities, jails and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population, viz., youth at risk for secure confinement. It is important for states to approach this in a comprehensive manner. The law sets out compliance provisions in this same section (see below for the requirements).

1989 OJJDP Instructions to States...

The OJJDP Instructions to the States issued on December 4, 1989 requires two phases of activity. Phase one requires each state to conduct a preliminary examination of the problem. If a state determines that a problem exists, then a Phase Two State Strategy must be prepared.

The Phase Two State Strategy should include a comprehensive assessment of the reasons for disproportionate confinement; improving prevention, diversion, and non-secure detention and corrections programs in areas where minority youth reside; outreach to community-based organizations that serve minority youth; and reintegration programs for youth previously confined in state or local facilities so as to reduce the likelihood of recidivism. Further, the state may develop and implement policies and practices which are racially and ethnically neutral and which produce unbiased, neutral results such as adopting objective criteria for determining the appropriate placement for youth.

The ultimate goal is for each state to improve the juvenile justice and youth services system by creating a comprehensive community-based service system that provides services for all youth equally and which are available to all youth regardless of race or ethnic background.

1990 National DMC Training Workshop...

In 1989, OJJDP developed a strategy to assist states and territories to carry out the requirements of the 1988 Amendments. As part of this strategy a national training workshop was held by OJJDP in February 1990 for states to assist them in efforts to reduce disproportionate minority confinement. The first technical assistance manual entitled *Disproportionate Minority Confinement Technical Assistance Manual* was issued later that year.

1991 Five-State DMC Initiative Funded by OJJDP...

In 1991, OJJDP funded a DMC Initiative through five states to obtain information about what works (and does not) in reducing DMC, results that can be anticipated in other jurisdictions, and recommendations for improving efforts across the states. The five states selected as pilot sites were Arizona, Florida, Iowa, North Carolina and Oregon. These states received additional funding and substantial technical assistance from OJJDP for several years to aggressively assess the extent of DMC in their juvenile justice systems and respond with comprehensive strategies to address DMC problems. The evaluation of these sites by Caliber Associates, Inc., pinpoint lessons learned, what works and recommendations for future action by states in addressing DMC. Since 1991, OJJDP through its national contractors has provided DMC technical assistance to almost every state and territory. Through a contract with Community Research Associates, Inc. (CRA), in Champaign, Illinois OJJDP has also sponsored many national and regional training sessions on DMC for juvenile justice practitioners, researchers, and policy makers and technical assistance to individual states. A cadre of CRA consultants

also assisted in providing DMC training to the judiciary in five regional workshops sponsored by the National Council of Juvenile And Family Court Judges.

1992 JJDP Act Reauthorization

The 1992 reauthorization of the JJDP Act added an even greater emphasis on reducing over-representation of minorities in the juvenile justice system by making DMC a core requirement alongside deinstitutionalization of status offenders, removal of juveniles from adult jails and lockups, and sight and sound separation of juvenile offenders from adults in secure institutions.

1993 through 1997 DMC Activity by OJJDP

In 1993, OJJDP published *The Status of the States: A Review of State Materials Regarding Over-representation of Minority Youth in the Juvenile Justice System* (Feyerherm) which discussed the accomplishments made by states as well as barriers in states to achieve a reduction in DMC. The same year Dr. William Feyerherm published *Disproportionate Minority Confinement: Lessons Learned from the Pilot State Experiences* in which he examined and defined the problem of over-representation, ways to view and combat the issue, and providing oversight and guidance to jurisdictions. A DMC fact sheet was also published by OJJDP in 1994, *Disproportionate Minority' Confinement* (Roscoe and Morton), providing a synopsis of the background and national data surrounding DMC and describing OJJDP's strategy to combat the problem (states engaging in Identification, Assessment, Intervention and Monitoring phases to address DMC) . In 1996, OJJDP published *Disproportionate Confinement of Minority Juveniles in Secure Facilities 1996 National Report*. This report is the second to summarize the status of all states participating in the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, to reduce disproportionate minority confinement in secure detention, secure correctional facilities, jails and lockups. Recognizing the continued need to foster development of working solutions to DMC and document effective strategies across the nation, OJJDP launched a three year national training , technical assistance, and information dissemination initiative through Cygnus, Inc. of Silver Spring, Maryland. OJJDP is also moving toward issuing DMC profiles of programs with outcome evaluation data documenting their effectiveness in reducing DMC.