

NOTES

1. In the task force surveys, the term "minorities" was defined as racial minorities including African Americans, Native Americans, Asian Americans, East Indians, Hispanics, Latinos, Mexican Americans and persons of Middle Eastern ancestry. Unless the text indicates otherwise, that is the meaning that applies in this report.

In a more general sense, "minority groups" are people who are singled out for unequal treatment, and who regard themselves as objects of unequal discrimination. Discrimination excludes minority groups from full participation in the life of their society.

2. Justice Peterson served as Chief Justice for eight years (1983–91) and retired from the Oregon Supreme Court on December 31, 1993.

3. Thomas, *From Affirmative Action to Affirming Diversity*, Harvard Business Review, March-April 1990, 107, 109.

4. Findings regarding the minority representation of nonjudicial court employees are based upon a 1993 Affirmative Action Plan (Appendix 2) prepared by the Judicial Department.

5. For example, a 1989 poll found that nearly 80 percent of all Americans believe that racism exists throughout the criminal justice system. Strasser, *One Nation Under Siege*, Nat'l L J § 2 at 1 (August 7, 1989). Whether or not that perception is true, it certainly is cause for serious concern.

6. Studies by Dean Alfred Blumstein of Carnegie-Mellon and by Joan Petersilia of the RAND Corporation, for example, conclude that approximately 80 percent of black over-representation in prison can be explained by differential involvement in crime and about 20 percent by subsequent racially discriminatory processes. Morris, *Race and Crime: What Evidence Is There That Race Influences Results in the Criminal Justice System?*, 72 *Judicature* 111 (1988). See also Shelley, *Structural Influences on the Problem of Race, Crime, and Criminal Justice Discrimination*, 67 *Tulane L Rev* 2273 (1993).

7. Defendants charged with murder or treason are, in some cases, not entitled to release. ORS 135.240(2).

8. Consider the cumulative significance of the training of young children recounted by Robert MacNeil in *Wordstruck* (1989), at pages 25-26:

My parents thought good manners very important. [They]... gave me lessons in politeness. I was five and not getting it very swiftly. In retrospect, it sounds a little like Henry Higgins with Eliza in *Pygmalion*.

"Now you're meeting Mrs. Grant. What do you say?"

No answer. Mrs. Grant was my godmother. I saw her often.

"You say, 'How do you do, Mrs. Grant. How are you today?' You say it."

"How do you do, Mrs. Grant, and how are you today?"

"No, don't mumble it; say it very clearly." ...

"... And look her in the eye. All right now: again, I'm Mrs. Grant and you are meeting me. What do you say?"

From the looks they exchanged I thought they must have suspected they had engendered a social retard, because I was not a quick study at this stuff. They were quite stern about it, and about shaking hands and looking people in the eye. Stern enough—and I remember the scene clearly—to make me very upset, not seeing the point, wanting to stop but being made to go on.

“No one trusts someone who doesn’t look them in the eye. They’ll think there is something shifty about you. So look me in the eye and shake hands....”
...If I was going to make my way in the world, I had to say *sir* and *how do you do*, look people in the eye, shake hands firmly, and get up whenever a woman entered the room.

9. In all other counties the percentages of downward dispositional departures were 8.2 percent for whites, 7.3 percent for Hispanics and 5.7 percent for African Americans. These differences were not deemed to be statistically significant.

10. It should be noted that the data for this report was collected before implementation of The Juvenile Justice and Delinquency Prevention Act, which led to such studies as the one conducted in Oregon by the State Commission on Children and Families, summarized below.

11. See *also* Chapter 2, Recommendation Number 2-1, concerning courthouse user guides for minorities.

12. See Appendix 6.

13. The 1991-92 low was due, in part, to the University of Oregon temporarily downsizing its first-year class.

14. According to the U.S. Bureau of the Census, persons of Hispanic origin may be of any race. Therefore, the sum of the percentages of citizens in Oregon exceeds 100 percent.

15. Provided by Robert Carr, Director of Data Services for Law School Admission Services, Inc.

16. The affirmative action office of the Oregon State Bar provided these statistics.

17. Statistics from the 1990 U.S. Census and Law School Admissions Services, Inc.

18. The U.S. Bureau of the Census states that persons of Hispanic origin may be of any race. Therefore, the sum of the percentages slightly exceeds 100 percent.

19. Oregon Department of Education statistics for 1990–92 indicate that in 1990, 4.37 percent of all Oregon secondary school students were of Hispanic ancestry. In 1992, 5.32 percent of all Oregon secondary school students were of Hispanic ancestry. It is reasonable to assume that, in the general population, the percentage of Oregonians of Hispanic origin has correspondingly increased since 1990.

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