

# CHAPTER TWO

---

## THE CRIMINAL JUSTICE SYSTEM

### AN ISSUE OF PUBLIC TRUST

“There is, at the least, a significant perception, by both minorities and nonminorities, of racism *within* the criminal justice system and that perception is, in many ways, every bit as disturbing as statistical reality.”

— Oregon Supreme Court Task Force on Racial/Ethnic Issues in the Judicial System, *Final Report* 31 (1994).

# INTRODUCTION

---

Oregon's criminal justice system is designed to be fair and in most cases exercises its authority in a nondiscriminatory fashion. Yet despite the system's inherent qualities of fairness, the Task Force discovered that some members of the public have lost confidence in the criminal justice system and no longer believe it is an institution in which they will receive fair treatment. Although based on anecdote, witness testimony and survey responses demonstrated that the perceptions of unequal treatment emerged as a response to and had a basis in actual experiences as justice seekers or legal practitioners. The Task Force also found six empirically based facts which supported the perception: minorities are (1) more likely to be arrested; (2) less likely to be released on bail; (3) more likely to be convicted; (4) less likely to be put on probation; and (5) more likely to be incarcerated. Additionally, and as a consequence of the preceding five facts, minorities are present in Oregon's state prison population in numbers that greatly exceed their proportional representation in the state. Yet, as noted by the Task Force, such perceptions and statistics only suggest the existence of a problem. Whether such perceptions conclusively demonstrate the existence of bias in Oregon's criminal justice system is a different matter. Nevertheless, the perception regarding the fairness of the criminal justice system is insolubly linked to its effectiveness and thus is cause for serious concern. Oregon's criminal justice system must not only be fair, but it must also appear to be fair.

The Task Force made recommendations to increase the public's confidence in the criminal justice system through cross-cultural education or other decisionmaking guidance, hiring needs, procedural modifications and the need to continue, and in some cases begin, collecting race-based data on significant flash points within the system. The implementation status of the recommendations relating to cross-cultural education, other decisionmaking guidance and procedural modifications are discussed in this chapter. The hiring recommendations are addressed in chapter four ("Creating a Culturally Competent and Representative Justice System"), and the data collection recommendations are discussed in chapter five ("Staying Vigilant Against Bias"). The Implementation Committee (IC) reviewed the recommendations with the Board on Public Safety Standards and Training, the Department of State Police, prosecutors, public defenders, the Chief Justice, the State Court Administrator, trial judges and legislators and determined the implementation status of each recommendation.

# DECISIONS MADE BEFORE TRIAL

---

Before an offender's criminal trial, the system has subjected her to three decisions: a decision to arrest and detain her; a decision to charge her with a crime; and, if charged, a decision whether to release her from custody pending trial. At each stage, the Task Force made recommendations to safeguard the decisionmaking process from the possible influence of racial bias.

---

## ARREST AND DETENTION

### CROSS-CULTURAL TRAINING FOR POLICE OFFICERS

Arrest and detention were technically outside the scope of the Task Force's responsibility because the activities occur prior to an individual becoming involved in the judicial process. However, because the Task Force received numerous comments regarding racially discriminatory acts during arrest and detention, and because arrest is the gateway to the judicial process, the Task Force developed two recommendations to address the concerns. The testimony related to a feeling among minorities that police officers stopped them and treated them with hostility solely on the basis of their race. The Task Force concluded that the perception of bias severely undermined the credibility and effectiveness of law enforcement and was related to a lack of cross-cultural understanding. Accordingly, the Task Force made recommendations to increase the cultural awareness of law enforcement personnel through education and hiring. The recommendation concerning employment will be addressed in chapter four.

**Task Force Recommendation 4-1.** The Task Force underscored the need for the Board on Public Safety Standards and Training (BPSST) and the Department of State Police (State Police) to ensure that state, county and city police officers receive training on how cross-cultural issues could impact their law enforcement activities.

**The Implementation Status.** Before an individual can serve as a law enforcement or corrections officer, she must graduate from an officer training program (see ORS 181.640). The BPSST conducts the training for county and city police and corrections officers. The larger counties (e.g., Multnomah) provide additional training once a candidate successfully completes the BPSST coursework. Most counties also provide in-service training for veteran officers. The State Police conducts a basic training program for state police officer candidates. Although the basic training programs are distinct, the State Police's program must meet the requirements set by BPSST because ORS 181.640 sets BPSST's training requirements as the minimum standards for all similar training programs. BPSST's program includes cross-cultural training as part of its curriculum. The Latin American Law Enforcement Association (LALEA) also emphasizes the need to ensure that police officers understand the concerns of minority communities and in so doing promotes effective communication between law enforcement and minority communities.

- **BPSST.** BPSST operates the Police Academy where county and city police and corrections officer candidates are trained. Basic training consists of an eight-week course that combines classroom instruction with field work. During the course, the Academy provides a four- to seven-hour cross-cultural training course for police officer candidates entitled "Cultural Dynamics in Law Enforcement" and one for corrections officer candidates entitled "Human Similarities." In

addition to the distinct cross-cultural courses, BPSST attempts to weave cultural issues into all its coursework (e.g., evidence gathering).

- \* *The Operating Philosophy.* BPSST has made cross-cultural training an integral part of its training program. Each year it asks the instructors to review their curriculum to determine the portions which are affected by cultural issues and to attempt to address the issues in a revised course plan.
- \* *The Courses.* The "Cultural Dynamics in Law Enforcement" course seeks to "develop an awareness of cultural/interpersonal issues which dictate the predominant values, attitudes, beliefs, and outlooks among multi-cultural environments." It accomplishes this goal by training a candidate to identify the following five performance objectives: (1) the interpersonal communication skills necessary to promote cooperation from members of the Hispanic community; (2) the interpersonal communication skills necessary to promote cooperation from members of the Black community; (3) the interpersonal communication skills necessary to promote cooperation from members of the Asian community; (4) the sub-cultures police officers experience; and (5) the contemporary measures that police departments are implementing to improve their communication with multiracial communities.

The "Human Similarities" course seeks to help the corrections officer candidates "better understand people different than [themselves] so [they] can perform [their] duty in the most effective and fair manner possible." It accomplishes this goal by training a candidate to identify the following ten performance objectives: (1) the corrections officer's responsibility in dealing with personal prejudices; (2) the most important thing to remember about inmate personality types; (3) comments often innocently said but highly offensive to different people; (4) a common term used in reference to minority groups that can be offensive; (5) the proper meaning of the word "prejudice;" (6) the proper meaning of "minority;" (7) the correct meaning of "bigot;" (8) how certain gestures can be offensive to people of different cultures; (9) the problem of identifying an individual as a member of a particular social or cultural group; and (10) typical examples of sexual harassment.

- \* *The Future.* The director of BPSST, Mr. Steve Bennett, is committed to doing all he can to remove cultural misunderstandings and racial prejudice from law enforcement activities. This commitment has translated into the development of three exciting initiatives for the future: (1) the weaving of cultural issues into the entire officer training curriculum; (2) the development of a community policing program; and (3) the development of a computerized cross-cultural training module. Regarding the community policing program, BPSST recently developed the Western Regional Community Policing Resource and Training Center to train citizen/public safety personnel teams in effective community policing strategies. BPSST created the Center in response to a new focus on community policing by various law enforcement agencies. The Center plans to emphasize the development of interpersonal communication skills. Such skills include the ability to communicate effectively with people from diverse cultural backgrounds. Regarding the computer training module, BPSST is discussing the idea of developing a cultural diversity curriculum and placing it on the Ed-Net computer network. County and city police agencies could access the program for ongoing training and review.

- **The Department of State Police.** The State Police operates the basic training course for state police officer candidates. Basic training consists of a sixteen-week course which includes classroom instruction and field work. During the sixteen-week course, the State Police provides 12 hours of cultural awareness/diversity training, 19 hours of related interpersonal communication training and 40 hours of Spanish language instruction.
  - \* *The Operating Philosophy.* The State Police has adopted a “built in, not added on” philosophy regarding cultural diversity training in law enforcement. Thus, it is moving toward a training program that weaves cultural issues into the entire curriculum.
- **The Latin American Law Enforcement Association (LALEA).** LALEA is an organization with over 100 members comprised of Hispanic and nonHispanic law enforcement officers. It recently entered a partnership with BPSST to develop a community policing project called the Community Assistance Response Teams (CART). The bilingual and bicultural CART are comprised of law enforcement officers, criminal justice personnel and citizens trained at BPSST. CART’s purpose is to foster understanding between Hispanic communities and local police agencies, to help the communities and local law enforcement agencies address cultural issues that may divide such communities and to leave tools for long term solutions. For more information call: Lt. Raul Ramirez, Central District Commander, Marion County Sheriff’s Office, Central District, 3940 Aumsville Highway S.E., Salem, Oregon 97301 or by phone at (503) 588-7971.

**Related Task Force recommendation: R 4-1**

---

## CHARGING DECISIONS

### THE DEVELOPMENT OF UNIFORM CHARGING STANDARDS

Being arrested does not necessarily mean a person will be prosecuted. Indeed, the decision whether to prosecute an arrested individual, and what charges to file, is left up to the county prosecutor. The county prosecutor bases the decision on a variety of factors including, but not limited to, the strength of the evidence and issues of public safety. The Task Force recognized the importance of prosecutorial discretion to effective charging decisions but was troubled by testimony indicating a perception that prosecutors were improperly influenced by race when making their charging decisions. Based on this testimony and an analysis of Oregon’s charging process, the Task Force highlighted three aspects of the process that, when taken together, raised a cause for concern: one, the strong perception among minorities and others that the race of the defendant or victim played a role in the decisionmaking process; two, prosecutors have almost no limitations on their charging authority; and three, no research has ever been done on the charging process in Oregon. Based on these findings, the Task Force made recommendations concerning the collection of race-related data in the charging process and the need to develop uniform charging standards. The recommendation relating to data collection is addressed in chapter five.

**Task Force Recommendation 4-4.** Because, as the Task Force noted, perception evidence is limited in its ability to demonstrate conclusively the presence of bias, the Task Force recommended that the

legislature require the Criminal Justice Council (CJC) to develop uniform charging standards, much like other professional codes of conduct, that would not restrict the charging process but would explicitly clarify a policy of race-neutral charging practices. The standards would be used by all prosecutors throughout Oregon and would state, at a bare minimum, that race, religion, nationality, gender, occupation or economic class were improper bases for charging.

**The Implementation Status.** The IC recognized the positive effect implementing recommendation 4-4 would have on the public's trust in the criminal justice system and accordingly engaged in a serious implementation effort. It reviewed models from other states and solicited the input of legislators, the CJC, the Oregon District Attorneys Association (ODAA) and the Oregon Criminal Defense Lawyers Association regarding the recommendation. It drafted legislation based on the research and suggestions and again solicited comment. However, after several committee discussions, a recognition that strong opposition to a legislative mandate to create uniform charging standards existed and the development of legislation by Representative Avel L. Gordly designed to address the recommendation (HB 2441, section 11, ultimately not enacted), the IC decided not to pursue further the implementation of recommendation 4-4.

- **Implementation Committee Proposal 2.1.** The IC encourages the ODAA to draft its own uniform charging standards concerning race that reflect its recently adopted "Recommended Standards for Charging." Although the current standards relate to evidentiary sufficiency and other procedural matters, the format provides a good model for standards relating to race-neutral charging. Further, such an explicit statement, even if not enforceable at law, enhances the public's trust in the criminal justice system because it publicly expresses a race-neutral charging policy.

#### Related Task Force recommendation: R 4-4

## PRETRIAL RELEASE DECISIONS

### AMEND THE PRETRIAL RELEASE CRITERION IN ORS 135.230(9)

**The Pretrial Release Process—ORS 135.230 to 135.295.** Oregon's criminal justice system employs a uniform pretrial release process that creates a presumption in favor of a personal recognizance release, rather than the posting of a security amount, to assure the appearance of the defendant at trial (see ORS 135.245(6)). Because a presumption is not a guarantee and because different defendants present varying risks, a judge must determine, in each case, the appropriate release decision. A judge may impose release conditions more restrictive than a recognizance release when necessary to protect the public's safety or assure the defendant's later appearance. To help guide the judge in determining the appropriate release decision, ORS 135.245(3) directs the judge to impose the "least onerous condition" likely to secure the defendant's appearance at trial and to release the defendant upon her own recognizance unless application of nine release criteria suggest that such a release is unwarranted.

The legislature designed the release criteria to help a judge determine whether a defendant, if released prior to trial, will return. The nine release criteria are listed at ORS 135.230(9) and include:

(1) the defendant's employment status; (2) the defendant's family relationships; (3) the defendant's past and present residences; (4) names of persons who agree to help the defendant appear for trial; (5) the current charge; (6) the defendant's prior criminal record; (7) any facts indicating the possibility of violations of law if the defendant is released without regulations; (8) the defendant's ties to the community; and (9) any other relevant facts.

**Task Force Recommendation 4-7.** The Task Force found that while the release criteria were facially neutral, factors relating to income had the potential for unfair application to minority defendants because they tend to comprise a disproportionately large percentage of the lower economic classes. Consequently, the Task Force concluded that a judge should consider the defendant's ability to satisfy a security amount when making a pretrial release decision. If the defendant has a very low income, the judge could consider other release options rather than imposing a bail amount that is impossible to meet and thereby confining the defendant to jail until her trial. The Task Force accordingly recommended that the legislature add the following factor to the pretrial release criteria listed in ORS 130.230(9): "the defendant's ability to provide cash, stocks, bonds or real property to secure a promise to appear in court."

**The Implementation Status.** The IC analyzed recommendation 4-7 and met with the Chief Justice and the State Court Administrator regarding the problem. After careful analysis, the IC determined that such an amendment would not achieve the desired results because a judge can analyze a defendant's ability to pay a bail amount under the current system. Moreover, the IC determined that without the inclusion of instructions regarding how to use the recommended language, the proposed amendment was unclear. The IC concluded that the problem was better handled through judicial education efforts rather than legislative action.

**Related Task Force recommendation: R 4-7**

IMPLEMENTATION PROGRESS “AT A GLANCE”

Rec. #	Description	Implementation Status
4-1	BPSST and the State Police should ensure that all state, city and county police officers receive cross-cultural awareness training. BPSST should make such training a prerequisite to certification.	<ul style="list-style-type: none"> <li>• BPSST includes cross-cultural training as part of Police Academy curriculum.</li> <li>• Department of State Police also trains new recruits on cultural issues.</li> <li>• Latin American Law Enforcement Association and BPSST are engaged cooperatively in a community policing project designed to improve the relationship between Hispanic communities and local law enforcement agencies.</li> </ul>
4-4	Legislature should instruct the Criminal Justice Council to develop uniform charging standards that specify, at a bare minimum, that race, religion, nationality, gender, occupation or economic class are improper bases for charging.	<ul style="list-style-type: none"> <li>• The IC drafted legislation, met with the affected entities and determined that strong opposition to a legislative mandate to create such standards made implementation unrealistic at this time.</li> <li>• HB 2441, section 11 (not enacted).</li> <li>• IC proposes that the Oregon District Attorneys Association develops its own uniform charging standards.</li> </ul>
4-7	Legislature should amend the pretrial release criteria of ORS 135.230(9) to include “the defendant’s ability to provide cash, stocks, bonds or real property to secure a promise to appear in court.”	The IC analyzed the recommendation and determined that the system was facially neutral and sound and that the problem was better addressed through judicial education efforts.

# DECISIONS MADE AT TRIAL

---

Once a defendant's case reaches the trial stage of the criminal process, built-in racial biases can negatively influence decisions made by attorneys, jurors and the judge regarding a defendant's or witness's truthfulness and ability to communicate. Further, unnecessary references to race during trial or in case law can perpetuate negative stereotypes. The Task Force accordingly made several recommendations to address issues related to built-in biases of lawyers, jurors and judges. The recommendations related to the need for cross-cultural education, a review of the uniform sentencing guidelines, explicit prohibitions on the manifestation of bias in the judicial code of conduct and the code of professional responsibility for lawyers, hiring concerns, educating jurors and jury selection. The recommendations regarding unnecessary references to race and sentencing practices are discussed below. The majority of the related recommendations are discussed in chapter four ("Creating a Culturally Competent and Representative Justice System"). The Task Force's recommendations regarding juries are discussed in chapter six ("Minorities and Jury Service").

---

## CONDUCT OF TRIAL

### JUDGES SHOULD REFER TO RACE ONLY WHEN NECESSARY TO THE DISPOSITION OF THE CASE

**Task Force Recommendation 4-8.** Because judges play such an important leadership role in court and in the development of case law, the Task Force made a specific recommendation to judges regarding the need for them to be keenly aware of racial stereotypes lurking beneath references to race and to refer to race only when necessary to the disposition of a case.

**The Implementation Status.** As noted above, ongoing cross cultural education and an amendment to the canons of judicial conduct prohibiting bias are proposed methods to address this issue. The educational efforts and judicial canons are discussed in more detail in chapter four. For the general purposes of this section, the Oregon Judicial Department (OJD) recently developed a diversity training module for all OJD employees (including judges) and local Inns of Court have conducted several symposiums on the issue of bias in the courts. Additionally, the Oregon Supreme Court is considering an amendment to the judicial canons that will prohibit the display of racial bias.

---

## SENTENCING

### THE SENTENCING GUIDELINES BOARD SHOULD CONSIDER AMENDING THE GUIDELINES TO ESTABLISH A FIVE-YEAR SUNSET PERIOD FOR CONSIDERATION OF PRIOR CRIMINAL HISTORY

**Oregon's Sentencing Guidelines.** Since November 1, 1989, Oregon's felony sentencing guidelines have governed the state's felony sentencing practices. The legislatively determined guidelines set presumptive sentences for convicted felons based on the seriousness of the crime and the offender's criminal history. Judges may impose a sentence other than the presumptive sentence after stating on the record the "substantial and compelling" reasons for the different sentence. The Criminal Justice Council (CJC) designed the sentencing guidelines to accomplish four goals: proportional and just punishment; truth in sentencing; maintenance of a sentencing policy consistent with correctional

capacity; and sentence uniformity. The last goal is most relevant to this section and means that offenders who commit similar crimes, and have similar criminal histories, will receive similar sentences. In essence, the fourth goal is designed to promote sentencing decisions that are race and gender neutral.

**Task Force Recommendation 4-11.** Despite the stated purpose, the racial neutrality of sentencing guidelines has failed to eliminate racial disparity in presumptive sentencing. In its most recent report on the implementation of the sentencing guidelines, the CJC concluded that “. . . minority offenders were more likely [than whites] to have a presumptive sentence of prison.” Although socioeconomic factors, rather than racial bias in the criminal justice system, could explain the above conclusion, the CJC noted that “[i]f there [was] racial . . . discrimination in the . . . system prior to sentencing, the disparity [would] be displayed in sentencing practices, even if the sentencing guidelines [were] administered without any bias based on race.” Consequently, the Task Force recommended that the CJC study and determine whether a five-year decay period is needed to ensure that Oregon’s presumptive sentencing framework does not work to petrify, or amplify, any discrimination that may have already taken place.

**The Implementation Status.** In October 1994, the CJC’s Legislative Committee discussed recommendation 4-11 and examined two examples of decay period proposals (one from the State of Washington and one developed by a committee member). After a significant discussion, the committee voted not to pursue the idea any further. After the CJC’s meeting, the IC met and discussed recommendation 4-11. The IC determined that it would not pursue legislation in this area because the CJC had previously considered a decay period and had determined it inappropriate, due to the presence of other recommendations designed to ameliorate the effect of bias in the criminal justice system and because Representative Avel L. Gordly had sponsored a bill addressing the recommendation (HB 2441, ultimately not enacted).

**Related Task Force recommendations: R 4-8 and 4-11**

IMPLEMENTATION PROGRESS "AT A GLANCE"

Rec. #	Description	Implementation Status
4-8	Judges should be aware of hidden racial stereotypes and refer to race only when necessary to the disposition of the case.	<ul style="list-style-type: none"> <li>• The OJD developed a diversity training module and provided it to all its employees.</li> <li>• Inns of Court have sponsored several symposiums on issues of racial bias in the courts.</li> <li>• The Oregon Supreme Court is considering an amendment to the canons of judicial conduct which would prohibit bias.</li> </ul>
4-11	The Sentencing Guidelines Board should again consider amendments to the sentencing guidelines that establish a five-year sunset period for consideration of prior criminal history.	<ul style="list-style-type: none"> <li>• The CJC Legislative Subcommittee examined the recommendation and two draft decay models and determined not to pursue implementation.</li> <li>• The IC reviewed the recommendation, discussed it with the affected entities and decided not to pursue legislative action.</li> <li>• HB 2441, section 13 (not enacted).</li> </ul>

# DECISIONS MADE AT PRISON

---

The Task Force concluded that the potential for racial and ethnic bias to affect negatively minorities in the criminal justice system continues in prison. The Task Force determined that bias could affect decisions relating to parole and post-prison supervision and an inmate's ability to receive educational or vocational training and counseling. The Task Force noted that many of these decisions are made by management level personnel, few of whom are minorities. The Task Force also noted that whether bias affected these decisions and processes was not certain and accordingly made three recommendations to determine the presence or absence of bias and safeguard the decisionmaking processes. The recommendations relate to data collection regarding parole and post-prison supervision decisions, an examination of program entrance requirements and an internal promotional program designed to retain minority employees for management positions. The recommendation related to hiring is addressed in chapter four and the recommendation concerning the need to collect data is discussed in chapter five.

---

## IMPRISONMENT

### THE ENTRANCE REQUIREMENTS OF THE DEPARTMENT OF CORRECTION'S EDUCATIONAL, VOCATIONAL AND TREATMENT PROGRAMS MUST BE RACE NEUTRAL

**Task Force Recommendation 4-14.** The Department of Corrections (DOC) provides its inmates with three types of services designed to promote reformation of offenders: educational, vocational and substance abuse counseling. In recommendation 4-14, the Task Force encouraged the DOC to examine the entrance requirements of these programs because testimonial evidence and statistical data indicated that the prerequisites might operate in a manner that systematically disfavors a racial or ethnic group.

**The Implementation Status.** The IC met with the former director of the DOC, the DOC's Educational/Vocational Programs Director and the DOC's Personnel Director to discuss the related recommendations. As a preliminary note, the former director was very supportive of the recommendations and the need to address racial/ethnic problems in the DOC. He stated that he had appointed a research person to review the recommendations affecting the DOC, had brought up the issues at the latest executive meeting and conducted frequent visits with individuals to discuss different aspects of the report. The DOC's new director has continued this effort. On November 16, 1995, the DOC published an update regarding its responses to related recommendations. The report is entitled: *Racial/Ethnic Issues in Oregon Corrections: An Update*. After a careful analysis, the DOC made the following determinations regarding its programs. The IC independently reviewed the programs' entrance requirements and the DOC's analysis and agreed with the DOC's conclusions.

- **The Treatment Programs.** The Alcohol and Drug Program provides an array of services that include many culturally sensitive programs (e.g., Native American sweat lodges, bilingual services, racially homogeneous group counseling and culturally specific workshops). The alcohol and drug treatment programs require that all inmates who wish to participate in the program have an unresolved alcohol or drug abuse problem, will reasonably benefit from the program and have an absence of psychopathology which would interfere with group counseling. Prior to application for enrollment into the program, a DOC staff person conducts a psycho-

logical evaluation with the inmate to determine the presence or absence of the above factors. The treatment program uses the psychological evaluations just as the educational programs uses screening tests. The DOC determined that the treatment programs' entrance requirements were not biased and that the programs themselves were culturally competent because the services were offered in foreign languages and organized around cultural practices. Additionally, the DOC reported in its recent report that "with few exceptions, the proportion of minority inmates in Department Alcohol and Drug Treatment Programs exceeds their proportion in the total prison population."

- *The Educational and Vocational Programs.* The DOC offers three general types of educational services to inmates: basic skills training, post secondary education and a job training program. The basic skills program provides courses in adult basic skills improvement, a general education development (GED) class, an English as a second language (ESL) course and a basic skills upgrade class. The post secondary program offers a developmental education course designed to improve basic academic skills and a college degree program. The vocational training program provides a job training and certification program in a variety of occupations from desktop publishing to auto mechanics. Before an inmate may participate in any educational or vocational program, she must complete a screening test. The test results dictate, in part, the programs in which an inmate may participate. Other prerequisites may include a GED certificate, a high school diploma or college degree. If the inmate does not speak English, she can enroll in the ESL course to improve her English skills. All of the courses are taught and tested in English.

The DOC determined that the entrance requirements of its educational programs were not racially biased because the screening requirements related directly to the services provided. For example, a very low score on a screening test and lack of a high school diploma would prohibit an inmate from enrolling in any program except the adult basic education or GED class. The test results, and other indicators, identify the academic level of an inmate, and in turn, her academic needs. The proportion of minority inmates participating in Education/Professional Technical Training Programs exceeds their proportion in the prison population.

However, the DOC also concluded that the vocational program's entrance requirements may negatively impact certain inmate groups because the programs are offered only in English and thus require an ability to speak English. Consequently, the requirement operates to deny participation by non-English speaking inmates. The inmates can take ESL classes to improve their English-speaking abilities, but because it may take several years to attain fluency, inmates may leave prison before they have an opportunity to benefit from vocational training. The DOC noted that to address these concerns and identify other potentially unfair entrance requirements, it was going to meet with prison minority groups (e.g., an African American inmate group called Uhuru-Sa Sa) to discuss the vocational program's entrance requirements, whether the requirements unfairly deny participation by minority inmates, and to identify potential solutions.

**The Future—Ballot Measure 17 (The Prison Reform and Inmate Work Act of 1994).** With the recently approved Prison Reform and Inmate Work Act of 1994, the DOC's mission regarding its educational and vocational training programs will change. The act requires the DOC to ensure that all prisoners work 40 hours per week. The work requirement will likely force a significant

downsizing of the vocational program and cause the educational program to refocus on work experience, rather than preparation for a college degree. Although the DOC has not yet formally modified its programs, its initial ideas include linking its educational programs with on-the-job experience and limiting its vocational program to computer training. The DOC noted that the staff participating in the process of developing inmate work programs regularly discuss the concept of equal opportunity regarding race, sex and physical handicaps.

- **Implementation Committee Proposal 2.2.** The IC strongly encourages the DOC to design and monitor the inmate work program to ensure that high quality jobs are equitably distributed among minority and nonminority inmates.

**The DOC’s Minority Affairs Council.** The Council is comprised of minority affairs officers from each prison, parole and probation officers, minority representatives from related organizations and a variety of upper level DOC administrators. The Council discusses racial issues within the DOC and proposes solutions to the problems.

**Related Task Force recommendation: R 4-14**

IMPLEMENTATION PROGRESS “AT A GLANCE”

Rec. #	Description	Implementation Status
4-14	The Department of Corrections should examine the entrance requirements of its educational, vocational and treatment programs to determine whether the requirements operate in a manner that systematically disfavors any racial or ethnic group.	<ul style="list-style-type: none"> <li>• DOC is committed to addressing the issues identified by the Task Force.</li> <li>• On November 16, 1995, the DOC published a report entitled <i>Racial/Ethnic Issues in Oregon Corrections: An Update</i>.</li> <li>• DOC examined the entrance requirements and determined that the treatment and educational program requirements did not disfavor any racial group; however, it also concluded that the English-only nature of its vocational programs disfavored non-English-speaking inmates. It planned to meet with inmate minority groups to discuss the requirement and any others the groups felt were unfair and develop possible solutions.</li> <li>• The Prison Reform and Inmate Work Act of 1994 will change the nature of educational and vocational training programs. Vocational programs will be scaled back and educational programs will focus on work, rather than college, preparation. DOC is committed to ensuring equal opportunity in its inmate work program.</li> </ul>