

# CHAPTER THREE

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## THE JUVENILE JUSTICE SYSTEM

### MINORITY YOUTH ARE OVERREPRESENTED

“It has been an axiom of popular wisdom that minority youth are more likely to become involved with the justice system than their nonminority counterparts. This cannot be characterized as a paranoid fantasy, nor can it be dismissed as a mere ‘perception.’ [Overrepresentation of minority youth in the juvenile justice system] was confirmed more than a decade ago . . . it was confirmed again in 1989 . . . it was confirmed overwhelmingly in 1993.”

— Oregon Supreme Court Task Force on Racial/Ethnic Issues in the Judicial System, *Final Report* 65 (1994).

# INTRODUCTION

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Oregon's juvenile justice system has both a disturbing and encouraging quality. The disturbing aspect is the conclusion of four studies demonstrating that in Oregon's juvenile system minority youth are represented in secure facilities at percentages that greatly exceed their representation in the general population. The encouraging attribute is that Oregon is nationally recognized as a leader in the effort to address this issue. The main reason for national acclaim is Oregon's long-standing commitment to rethinking and ultimately improving its juvenile system. In the last four years, Oregon has embarked on a voyage of unprecedented analysis and improvement which has led to the implementation of six pilot projects to address the overrepresentation issue, a system wide cross-cultural training program, the implementation of a juvenile detention alternative initiative in Multnomah County and a major overhaul of the entire juvenile system.

In 1991, the state legislature created the Oregon Commission on Children and Families (the Commission) to improve upon previous efforts of the Juvenile Services Commission and the Oregon Community Children and Youth Services Commission (the Oregon Community) by providing comprehensive planning for the "wellness" of all children. The Commission provides county commissions with funds to implement systems that serve the needs of children and families in their communities. It also monitors these programs for adherence to ten legislatively determined principles. Among others, one principle local commissions must meet in order to receive funds is the recognition that a community's ethnic, cultural and language diversity is an integral component of comprehensive planning.

Since 1988, the Commission's precursor (i.e., the Oregon Community), and now the Commission, have also been studying the problem of disproportionate overrepresentation of minority youth in secure facilities and developing strategies to address the problem. These efforts are described below. Two other efforts described in this chapter likewise demonstrate Oregon's leadership in the juvenile justice area. One program is a juvenile detention alternative initiative in Multnomah County. One of four goals of the project is to reduce minority youth overrepresentation by eliminating racial bias in the detention system. The other efforts to improve the juvenile system are the translation of findings of the Governor's Task Force on Juvenile Justice (Governor's Task Force) into legislation reforming the entire juvenile system, and Ballot Measure 11, which requires courts to try juveniles accused of committing certain violent and sex crimes as adults.

The Task Force made three recommendations further to improve the juvenile justice system. It recommended that the Commission continue its efforts to address the minority youth overrepresentation issue, that the statutory right to an interpreter in juvenile proceedings be expanded and that a list of culturally competent juvenile experts be compiled and made available to all juvenile justice practitioners. The recommendations concerning the Commission and the development of a list are discussed in this chapter. The recommendation concerning interpreters is described in chapter one. The Implementation Committee met with the Commission, the Native American Pass Through Initiative Project, juvenile practitioners and the Governor's Task Force to identify the various efforts in this area.

# IMPROVING THE SYSTEM

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This chapter begins with a discussion of the phase I and II efforts of the State Commission on Children and Families to address the overrepresentation problem. As noted above, the Commission has been involved in this issue for several years and is recognized nationally as a leader in the area. Below, the report summarizes the Commission's efforts since 1991. The chapter's second subsection discusses other related efforts to improve the juvenile justice system and address the overrepresentation issue.

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## THE STATE COMMISSION ON CHILDREN AND FAMILIES

### MAINTAINING THE PROGRESS IN ADDRESSING THE OVERREPRESENTATION PROBLEM— PHASE I AND II EFFORTS

In 1988, the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) developed a discretionary grant program entitled the Special Emphasis Minority Program. The OJJDP designed the grant program to develop pilot programs in five states to address the problem of minority youth overrepresentation in secure facilities. Through a competitive process, the OJJDP selected Oregon as one of five states to receive the funds. The Commission then initiated a Phase I and II effort to fulfill the grant program's goals.

**Task Force Recommendation 5-1.** The Task Force concluded that minority youth were disproportionately represented in confinement in Oregon's juvenile justice system. It also recognized the notable efforts of the Commission to address this issue. The Task Force accordingly recommended that the Commission maintain its progress and suggested six specific areas the Commission should study. The six areas included: (1) community-based alternatives; (2) diversion programs; (3) alternatives to confinement; (4) after-care programs; (5) cross-cultural training for juvenile justice personnel; and (6) the development of a systemic ongoing monitoring procedure.

**The Implementation Status.** The Commission's Phase I and II implementation plan incorporates recommendation 5-1 and is summarized below.

- **Phase I.** During its Phase I efforts, the Commission initiated a study to determine whether and to what extent minority youth were disproportionately overrepresented in the juvenile justice system. The Commission focused the bulk of its research efforts on Lane, Marion and Multnomah counties because 70 percent of all 12- to 17-year-olds and 60 percent of all minority youth live in these counties. Based on its research, the Commission determined that minority youth were disproportionately overrepresented in confinement in Oregon's juvenile justice system.

At the same time the Commission was conducting its research, it implemented three pilot projects designed to address the overrepresentation problem. In 1991, the Commission provided Lane, Marion and Multnomah counties \$33,000 each to develop the pilot projects. The Commission hoped that the projects, if successful, could serve as models for other counties. The projects concluded in 1994 and are summarily described below. As part of its Phase II efforts, the Commission undertook a process and impact evaluation to determine the effectiveness of the pilot programs. The evaluations will be discussed in the section describing the Phase II efforts.

- \* *Lane County—The Minority Youth Advocacy Program.* The Lane County Department of Youth Services designed the Minority Youth Advocacy Program to reduce the recidivism rate of minority youth offenders by addressing their needs in a more culturally appropriate manner and providing them support in the larger community. To this end, it provided the following services to minority youth and their families: counseling, mentoring through the Big Brother Program, interpreter/translation services, transportation, court advocacy, conflict mediation, liaison to schools, and information and referrals. The services were designed to help youth overcome behavioral, language, self-esteem and cultural identity issues. As part of the Commission's Phase II efforts, Lane County received funds to continue the project. For more information, contact Ms. Linda Wagner at (503) 341-4792.
- \* *Marion County—Minority Initiative Program: Cultural Competency Criteria.* The Marion County Commission (MCC) on Children and Families implemented a systems change by developing the Cultural Competency Criteria. Youth service agencies funded by the MCC used the criteria as a checklist to help them determine their "cultural competency" and thereby improve their ability to provide culturally appropriate services to all clients. Components of the checklist included: the surrounding community, management controls, bilingual capabilities, available resources, facilities, the type of service provided and feedback received. The MCC introduced the criteria to agencies through grant processes and formal contract and other meetings. Due to the initiative's success, the MCC has decided to make the criteria a permanent part of its grants program. For more information, contact Mr. Marco Benavides at (503) 588-7975.
- \* *Multnomah County—Parole Transition Project.* The Multnomah County Juvenile Justice Division (Multnomah County) designed the Parole Transition Project to improve the services provided to minority youth during the first three months after release from custody. A Parole Transition Coordinator staffed the project and performed the following duties: meeting with youth at training schools and close custody camps; attending Close Custody Review Board hearings and case reviews; working with juvenile parole staff to develop an effective transition plan for each youth; and developing community-based resources for paroled youth. The project's goals were to protect the community by providing better services to youth during the first three months of parole, make the state-funded youth care beds and programs located in Multnomah County more accessible to paroled Multnomah County youth and make Multnomah County Juvenile Justice Division a leader among youth care systems nationwide. The project was a success and is now a permanent component of Multnomah County's juvenile system. For more information, call the project coordinator, Mr. Steve Walker, at (503) 248-3460, ext. 8192.
- **Phase II.** The Commission's Phase II efforts began in the fall of 1994 and involves the coordination of two research efforts: a process evaluation and an impact report regarding the three Phase I pilot projects. Additionally, the Commission continually uses the data from its research on minority youth overrepresentation to enhance and refine the Special Emphasis Minority Program projects. The Commission also developed a comprehensive plan to address the overrepresentation issue. As part of the plan, it allocated \$150,000 for a grant program to fund three new demonstration projects, \$108,000 for cultural competency training and other money to study a more effective and comprehensive data collection process.

- \* *The Process Evaluation.* In September 1994, Joan Brown-Kline of Brown-Kline & Company completed a process evaluation of the Phase I pilot programs in Lane, Marion and Multnomah counties. The evaluation’s purpose was to analyze the effectiveness of efforts related to program implementation, rather than measure the impact on clients. Ms. Brown-Kline developed seven conclusions regarding each program. She generally concluded that each program had effectively implemented its vision but also made several specific recommendations per project to improve the processes used in each. The purpose of the recommendations was to aid other entities wishing to replicate the programs by identifying the processes that worked best and the areas that could be improved.
- \* *The Impact Report.* The Commission is also completing an impact report to determine the effectiveness of the three pilot projects in terms of client outcomes. The report is not yet complete.
- \* *The Three New Demonstration Projects.* In August 1994, with a grant of \$150,000, the Commission requested proposals from organizations statewide for projects that would provide more culturally competent services and ultimately decrease the disproportionate overrepresentation of minority youth in confinement. The Commission wanted to fund projects that other units of local government or agencies could replicate. The Commission divided the \$150,000 three ways—\$40,000 for a rural project, \$60,000 for an urban project and \$50,000 for a systems change project. In October 1994, the Commission funded the following three projects:

Rural	Urban	Systems Change
<p><b>Malheur County—Mexican American Citizens League, Hispanic Youth on the Move Project</b></p> <p>The Citizens League designed the project to impact the overrepresentation of Hispanic youth in confinement by implementing intervention strategies (e.g., mentoring), improving relationships with juvenile justice practitioners (e.g., providing interpretation services) and developing a computer tracking system.</p> <p>• <b>Contact:</b> Mr. Arthur Gueora (503) 889-9194</p>	<p><b>Lane County—The Minority Youth Advocacy Program (MYAP)</b></p> <p>MYAP is a continuation project of Lane County’s Phase I grant program. Its goal is to reduce the overrepresentation of minority youth in the juvenile system by providing an effective diversion program that reduces the likelihood of minority youth progressing through the system.</p> <p>• <b>Contact:</b> Ms. Linda Wagner (503) 341-4792</p>	<p><b>Marion County—Juvenile Department, Student Internship Program</b></p> <p>The program’s goal is to improve the provision of services to Hispanic youth and thereby reduce their presence in confinement by placing bilingual/bicultural college interns in the Juvenile Department of Marion County. An additional goal is to diversify the department’s workforce by employing the student interns once they graduate.</p> <p>• <b>Contact:</b> Ms. Maria Parra (503) 982-2323, ext. 20</p>

- \* *The Cultural Competency Training Program.* In the fall of 1994, the Commission sent two juvenile justice practitioners to a training that equipped them to train others in cultural competency. The trained practitioners then made their services available to counties throughout the state. The Commission decided to develop a local resource of trainers who focused on the juvenile system, rather than contract with other diversity trainers, because under this scheme the Commission could ensure that a uniform and high quality program focusing on juvenile justice was disseminated statewide. The Commission also provided each county with \$3,000 for cultural competency training and assistance.
- \* *The Data Collection Systems Plan.* A recurring problem the Commission encountered during its research and evaluation efforts was the poor data collection system used by various counties. The data was not only incomplete in many circumstances but also lacked uniformity across counties. These facts made an accurate analysis of the juvenile system difficult. Consequently, the Commission is studying methods the counties might use to better collect data at all decision points in the juvenile system and thereby enhance the Commission's ongoing monitoring efforts.

**The Native American Pass Through Initiative (NAPTI).** Part of the JJDPa block grant process mandates that a portion of the funds pass through to Native American tribes to study juvenile justice issues within their communities. However, because no tribal organization expressed an interest in the project, the Commission used the pass-through money and other block grant funds to contract with Ms. Patricia Hinrichs to study the issue. In September 1994, Ms. Hinrichs completed a report. A significant problem inhibiting research was the failure by most juvenile justice entities to track Native American ethnicity. Based on the report's findings, the NAPTI Committee adopted the following six recommendations: (1) address the lack of data on Native American youth; (2) provide technical assistance to Native American professionals; (3) provide training that addresses tribal sovereignty and cultural diversity issues; (4) examine tribal/state linkages; (5) provide a Native American resource library; and (6) address the lack of funding sources for tribes. For more information, contact Ms. Patricia Hinrichs at (503) 756-2020, ext. 517.

#### **Related Task Force recommendation: R 5-1**

## OTHER RELATED EFFORTS

- **Ballot Measure 11**
- **Senate Bill 1**
- **Multnomah County Juvenile Detention Alternatives Initiative**
- **List of Culturally Competent Juvenile Experts**

## BALLOT MEASURE 11

In April 1995, the recently enacted Ballot Measure 11 went into effect and now mandates that every juvenile between the ages of 15 and 17 who is charged with one of sixteen listed violent and sex crimes "be prosecuted as an adult in criminal court." The law also sets mandatory minimum sentences for each listed crime that range from 5 years and 10 months to 25 years.

**Implementation Committee Proposal 3.1.** The Committee is concerned that without careful front-end planning, Measure 11 could exacerbate the overrepresentation problem. Accordingly, it encourages all youth service agencies, juvenile justice practitioners and policy planners to continue or implement programs designed to help juveniles avoid criminal activity in the first place by providing youth with support from, and opportunities in, their communities.

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#### SENATE BILL 1

On June 30, 1995, Governor Kitzhaber signed Senate Bill (SB) 1. SB 1 is the result of a year-long planning effort of the Governor's Task Force on Juvenile Justice (the Governor's Task Force), chaired by Attorney General Theodore R. Kulongoski, and implements a complete overhaul of Oregon's juvenile justice system. The Governor's Task Force based its systemic reform recommendations on the following seven goals: (1) individual accountability; (2) public safety; (3) certain and consistent sanctions; (4) effective reform and rehabilitation programs; (5) early intervention and prevention; (6) parental involvement and responsibility; and (7) most effective use of available resources.

SB 1 divests the Children's Services Division of the responsibility of dealing with violent juvenile criminals and creates a new Department of Youth Authority. The new department is solely responsible for the administration of services to violent juvenile offenders. SB 1 authorizes the construction of four maximum security juvenile facilities, requires all juvenile offenders to be photographed and fingerprinted, implements a tiered sanction system and makes the expungement of juvenile records more difficult. It also includes a "second-look" review which provides youths with an opportunity for parole after serving half of their sentence. The decision is generally based on the youth's behavior while incarcerated.

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#### MULTNOMAH COUNTY JUVENILE DETENTION ALTERNATIVES INITIATIVE

In August 1994, the Annie E. Casey Foundation awarded Multnomah County (one of three jurisdictions nationwide) a \$2.25 million grant to implement a juvenile detention alternatives initiative. The project has four goals, the last of which is most relevant to the overrepresentation issue. The four goals are: (1) to minimize the use of secure detention; (2) to enhance the monitoring and tracking capabilities of the juvenile system through better data collection methods; (3) to use diverted funds to improve case management; and (4) to reduce the disproportionate number of minority youths in secure facilities by eliminating racial bias from the juvenile system. The initiative's primary tool is a risk assessment instrument designed to help detention intake workers prioritize their intake decisions. By weighing a variety of factors, the assessment tool identifies those juveniles who pose the most serious threat to the public's safety. The grant will fund the initiative for three years.

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#### LIST OF CULTURALLY COMPETENT JUVENILE EXPERTS

The Task Force concluded that because experts who testified at some juvenile trials involving minority youth lacked an understanding of the child's cultural background, they did not consider facts and disposition alternatives specific to the youth's culture. The failure to consider culturally specific facts could lead the court to render inappropriate and ineffective disposition decisions. The Task

Force accordingly recommended that the Commission, Children’s Services Division and county juvenile departments develop a list of juvenile experts who possessed knowledge of various minority cultures and make the list available to juvenile court staff and practitioners.

The IC met with the Commission and the NAPTII Project regarding the recommendation. The entities agreed that such a list would be helpful and the Commission’s representative agreed to raise the issue of how to develop such a list at the February 1995 meeting of the Commission’s subcommittee working on the overrepresentation issue. The representative subsequently obtained another job that took her out of state. Consequently, a strategic plan regarding the implementation of this recommendation is pending.

**Implementation Committee Proposal 3.2.** The IC encourages the Commission to reinstate the implementation planning process and proposes that the Commission serve as the coordinating body for the list, gathering the necessary information from the county commissions. Juvenile court staff could contact their local commissions, or the State Commission, for copies of the list or recommendations regarding experts.

**Related recommendation: R 5-3**

IMPLEMENTATION PROGRESS “AT A GLANCE”

Rec. #	Description	Implementation Status
5-1	The Commission should continue to develop and implement a comprehensive plan to reduce minority overrepresentation. The plan should focus on the following six areas: community-based alternatives, diversion programs, alternatives to confinement, after-care programs, cross-cultural training for juvenile justice personnel and the development of a systemic ongoing monitoring process.	The Commission has a comprehensive plan to reduce minority youth overrepresentation in secure facilities that includes a process and impact evaluation of three completed pilot projects, the funding of three new projects, a state-wide cross-cultural training program for all juvenile justice personnel, a study on how to improve system-wide data collection and a completed report with recommendations regarding the treatment of Native American youth in the system.
5-3	The Commission, CSD and juvenile departments should develop a list of experts who are minorities or can evaluate the cultural background of minority youth and their families to be made available to juvenile court staff and practitioners.	The IC met with the Commission and NAPTII. The Commission agreed to pursue implementation of the recommendation but the contact person subsequently obtained a new job and left the state. Consequently, implementation is pending.