

**RACIAL OVER-REPRESENTATION  
IN THE  
CRIMINAL JUSTICE SYSTEM**

**Task Force Report**

**2001-2002**



December 10, 2002



To the Members of Multnomah County's Communities who are Dedicated to Reducing Over-Representation of Minorities in the Criminal Justice System:

This report of the Racial Over-Representation in the Criminal Justice System Task Force (ROCS) represents the second phase of efforts undertaken by the Local Public Safety Coordinating Council of Multnomah County (LPSCC) to address the issues surrounding over-representation. The first phase culminated in the October 2000 report "Ensuring Equitable Treatment in the Criminal Justice System." Through the strong leadership of District Attorney Michael Schrunk, the October 2000 report provided the baseline data and identified areas that needed a further look and served as the foundation of the Task Force's efforts.

LPSCC charged ROCS to hold forums concerning race and the criminal justice system. The leaders of the public safety system in Multnomah County should be commended for their continued pursuit to address this issue. Throughout this process, under the leadership of District Attorney Michael Schrunk and Reverend Ronald Williams, I have seen tremendous commitment and courage. Multnomah County has a national reputation for its work to address racial over-representation. Part of that reputation stems from the ability to have key stakeholders at the same table having serious discussions on this issue. The ROCS process raised the bar even further by making a commitment to pursue this issue openly with direct communication from the community.

This ROCS report provides recommendations that are based on specific systematic approaches or adjustments that can be taken to reduce over-representation. The LPSCC Members are determined to continue to find ways to talk about, understand, and decrease over-representation. On their behalf, I would like to thank all of those who contributed their time and energy to the ROCS process.

Sincerely,

Christine Kirk  
Director

*Racial Over-Representation in the Criminal Justice System – Task Force Report*

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# TASK FORCE ON RACIAL OVER-REPRESENTATION IN THE MULTNOMAH COUNTY CRIMINAL JUSTICE SYSTEM

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# TASK FORCE ON RACIAL OVER-REPRESENTATION IN THE MULTNOMAH COUNTY CRIMINAL JUSTICE SYSTEM

## I. Introduction

In the spring of 1998, Multnomah County's Local Public Safety Coordinating Council (LPSCC) adopted *over-representation of minorities in the criminal justice system* as a priority for action. The questions at the forefront were:

- . Are all racial and ethnic groups treated fairly and equitably by the justice system?
- . If not, what should we do in Multnomah County to achieve the goal of fair and equitable treatment?

LPSCC felt that the question of whether there is biased decision-making and treatment of minorities by the justice system – either conscious or unconscious – should be explored. LPSCC appointed a *Working Group on Over-Representation in the Criminal Justice System*, which began meeting in 1998, and published their report in October 2000.

A definition of the issue was adopted to guide research and action.

**Racial Over-Representation in the Criminal Justice System:** When the percentage of a particular group in the criminal justice population is greater than that group's percentage in the general population.

Issues raised during the deliberations of the *Working Group on Over-Representation in the Criminal Justice System* (1998-2000) included a broad array of social, economic and justice issues:<sup>a</sup>

- Numerous people believe that many systems within the United States, including the justice system, are, in fact, racially and ethnically biased.
- Issues of disparity in access to health and mental/behavioral health have recurred both nationally and in Multnomah County. Also, there are major concerns about equity in the public education system, employment rates and salary levels, and differences in both income and assets.
- Racial profiling (by which people of color are stopped, searched or arrested in disproportionate numbers) has become the focus of media attention and is being looked at in national, state, and local forums.

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a Excerpted from *Ensuring Equitable Treatment in the Criminal Justice System: Addressing Over-Representation of Racial and Ethnic Minorities – An Assessment and Action Plan*, October 2000.

- Other areas where there may be a perception of unfairness in the criminal justice system include in part: pretrial holds, variation in plea offers, and representation by a public defender versus a privately retained attorney.
- There may be the possibility that minorities may receive unfair sentences or fewer referrals to rehabilitative social programs. And the possibility that sentences and sanctions of offenders on supervision may be more constructive versus more punitive echoes the concern that all offenders should be handled equitably in this respect as well.

Besides the LPSCC *Working Group on Over-Representation in the Criminal Justice System* (1998-2000), there were many other occurrences in Multnomah County and the State of Oregon that simultaneously worked to address the issues of over-representation. The State of Oregon passed a law requiring all police agencies to collect racial and ethnic data on traffic stops. The Portland Police Bureau created a *Blue Ribbon Panel on Racial Profiling* to assess and address the issue. Multnomah County's Juvenile Justice System has created a national model to address who is held in juvenile detention, which has resulted in reducing disparities in detention of minority youth. Also, efforts have been undertaken by social and health services – such as Multnomah County's Mental Health and Substance Abuse programs, the Department of Community Justice, and the Health Department – to deliver “culturally competent” services that address language and cultural needs of the recipient.

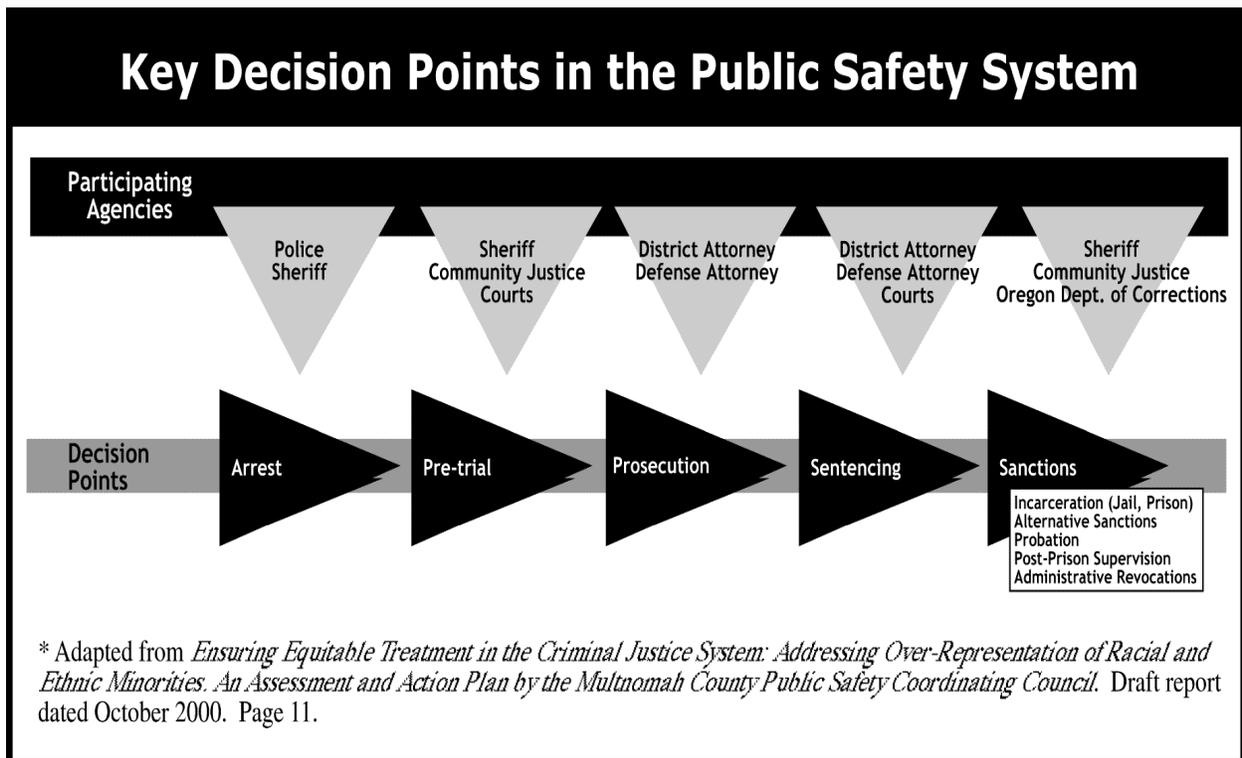
## II. Working Group on Over-Representation – 1998 to 2000

In 1998, the *Working Group on Minority Over-Representation in the Criminal Justice System*, composed of eighteen representatives from diverse criminal justice fields, began work. It was charged with two tasks:

- **Conduct Investigations** – to determine if, and to what extent, over-representation exists in Multnomah County’s criminal justice system.
- **Recommend an Action Plan to LPSCC** – which includes specific actions to reduce any disparate practices or inequitable conditions that were found.

Operating principles were adopted, which included recognition that: recommendations must be created with community input, the focus should be on things that could be changed, public policies and resource allocation both impact over-representation, and available data was limited.

The Work Group began by researching the degree of over-representation for those coming into the system, by assessing percentages of arrest for each group’s population, and then examined whether the level of over-representation increased or decreased at each processing decision point.



Through the data analysis, the Working Group confirmed the existence and degree to which over-representation exists in Multnomah County, and called for action to detect and eliminate any discriminatory or unfair practices contributing to it. They cautioned that the existence of over-representation by itself, however, did not mean that all decisions, practices, or policies within the criminal justice system were discriminatory or unfair.

The lack of data collected in comparable formats and differences in its interpretation complicated the research task. The Group used “drilling down” into more detail to better understand the implications of the data, but experienced limitations nevertheless.

Findings on over-representation were:

1. **Arrests:** Over-representation of some racial groups permeated most crime categories, but was especially high in Drug and Trespass cases.
2. **Prosecution/Adjudication:** Rates of prosecution, dismissal and guilty verdicts were fairly consistent (to the percentage of cases received) across racial and ethnic groups.
3. **Sentencing:** Harsher sentences were more often applied to people of color, and lenient options were more often granted to white offenders.<sup>b</sup>
4. **Supervision:** African Americans were more often assessed as at high risk to re-offend, and white prisoners more often assessed at limited risk to re-offend.<sup>c</sup>

A summary of the data collected showing the areas of over and under-representation found by the Working Group follow this page.

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<sup>b</sup> Oregon’s sentencing guidelines place defendants into categories based on the severity of their current offense and the seriousness of their criminal history. These categories are presumed to cluster defendants who ought to receive similar sentences. A few “grid blocks” in the sentencing guideline matrix were identified as areas with high levels of disparity in sentencing.

<sup>c</sup> Use of administrative sanctions, based on violations of conditions of supervision, also showed over-representation, and were likely to result in higher risk scores and more intensive supervision.

## Overview of the 1999 Data – From October 2000 Report

RACE/ ETHNICITY	REPRESENTATION					
	Population	Arrests	Jail: Offenders Booked	Prosecution: Cases Received	Court: Guilty Sentence	Post Prison Supervision & Probation
Asian	6.0%	2.3%	1.6%	2.0%	2.1%	1.8%
Hispanic	4.0%	9.5%	9.2%	9.9%	9.9%	4.9%
African- American	8.0%	23.0%	23.4%	22.2%	23.5%	22.0%
Native American	1.0%	2.3%	1.5%	1.3%	1.3%	1.2%
White	83%	63.0%	64.3%	64.5%	63.2%	70.3%
TOTAL	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

In October 2000, after a year and a half of research and deliberations, the Working Group published its report. Their top recommendations to move the process forward were:

1. **Appoint a Task Force** to bring community members and policy leaders together, utilizing the diverse membership of minority community leaders and criminal justice professionals to develop an action plan for reducing the trend of minority over-representation.
2. **Develop a permanent process** of uniform system-wide data collection and analysis, with systems for feedback and correction; connect data to policy decisions.

Based on these recommendations, LPSCC formed the *Racial Over-Representation in the Criminal Justice System (ROCS) Task Force* in late 2000, to carry the work to a second phase. This report summarizes the issues and recommendations on racial over-representation conducted by the ROCS Task Force.

For more information on the first phase of the LPSCC process, see *Multnomah County Public Safety Coordinating Council, Working Group on Minority Over-Representation in the Criminal Justice System, Draft Report, October 2000, Ensuring Equitable Treatment in the Criminal Justice System: Addressing Over-Representation of Racial and Ethnic Minorities – An Assessment and Action Plan*. The *Executive Summary* and *Introduction* of the October 2000 report are included in Appendix F; the entire report is available on LPSCC’s web site, [www.lpscc.org](http://www.lpscc.org).

### **III. Racial Over-Representation in the Criminal Justice System (ROCS) Task Force – 2001 to 2002**

LPSCC established a *Racial Over-Representation in the Criminal Justice System (ROCS) Task Force* to continue the work of the initial 1998-2000 Working Group. ROCS, co-chaired by District Attorney Michael Schrunck and Reverend Ronald Williams of Bethel AME of Portland, included 29 members, of which 50% were from the community.

LPSCC charged ROCS with the following specific tasks:

- . **Further analyze the relevant data**, and investigate more thoroughly three identified areas of high over-representation levels:
  - Drug crimes and Trespass II arrests;
  - The sentencing grid blocks 8-G, 8- H, and 8-I, where disparities were found; and
  - High-risk scores and subsequent administrative sanctions for minorities in supervision.
- . **Engage the public**, particularly within communities of color, to facilitate a mutual understanding among citizens and policymakers about issues of over-representation.
- . **Develop an Action Plan** that identifies effective, immediate, short and long-term strategies to address and reduce the trend of minority over-representation.

The ROCS Task Force was tasked to encourage policies and practices that would treat all groups fairly, rather than would reduce public safety or encourage lenient treatment of certain persons who were members of over-represented racial groups or would promote harsher treatment of under-represented groups. While significant contributors to over-representation were recognized to include many economic and social factors, the ROCS Task Force was asked to examine sources of over-representation only **within the justice system**.

Starting in January 2001, the ROCS Task Force held nine public meetings. Work groups were formed to address four focus issues: Arrest, Court Processes, Corrections, and Outreach. Work groups began meeting in March 2001, and each met from four to fifteen times.

The complexities of the system required both the ROCS Task Force and its work groups to focus on the key areas outlined in their charge. This focus allowed members to delve deeper into each issue and develop more concrete recommendations.

In spring 2002, findings and recommendations from the ROCS Task Force and all four work groups were collected, serving as the basis for this report.

## **IV. Recommendations: Primary Themes from the ROCS Task Force**

The following key themes emerged from the ROCS Task Force meetings, four work groups' recommendations, and input from participants and community members.

### **A. Increase Rate of Appearance at Court Hearings**

Failure to Appear (FTA) at Court has negative consequences for both the defendant and the criminal justice system. For the offender, it results in a bench warrant, possible arrest, booking into jail and detention, and sanctions if under supervision at the time of the arrest. For the criminal justice system, FTA results in a need for constant revision of Court calendars and additional working time for all involved.<sup>d</sup>

Programs, such as that in King County Washington, have demonstrated that systematic reminders can increase attendance at court hearings and decrease over-representation. Similar *Interactive Voice Response* (IVR) system programs are needed in Multnomah County to reduce failures to appear.

### **B. Expand the Availability and Use of Data**

Each work group experienced delay of their work and some frustration due to the unavailability of key data. For example, the *Corrections Work Group* was delayed many months in assessing possible disparities in the risk assessment process, and has still not been able to link information on risk assessment with information on sanctions for community corrections clients. The *Court Process Work Group* identified information needed to assess apparent disparities within specific “grid blocks” of the sentencing guidelines, but had to manually extract information from district attorney case files because data was not available from a unified system.

The *Decision Support System – Justice* (DSS-J) is a data warehouse designed to provide information on the entire criminal justice system. DSS-J is limited by the data provided and the quality of that data from source agencies. Data and policy analysis resources are also extremely limited, and there are inadequate resources dedicated to looking at the entire justice system.

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<sup>d</sup> Although data does not readily exist to confirm the impact of FTAs on the defendant or the criminal justice system, ROCS members questioned the correlation between FTAs and harsher sentences. They also discussed whether a person who continually fails to appear for court is a risk to public safety solely due to their FTA history. An interest in considering a person's risk to the community, over their ability to show up for court, was strongly discussed. Concerns were raised that a person's reason for not showing up for court may have more to do with requiring people with unstructured unpredictable lives to follow the rules of a highly structured system.

### **C. Recognize the Importance of A&D Issues; Improve A&D Prevention and Treatment**

Every work group reinforced the importance of substance abuse. One of the arrest categories making the highest contribution to over-representation was *Possession of Illegal Substances* and *Trespass II* arrests, which may be related to the drug-free zones in the City of Portland. The sentencing guideline grid blocks, selected for analysis where disparities were found, included felony-level substance use and possession crimes. A larger number of persons who had high supervision risk scores (who also were more likely to be minorities) had indicators of a substance-use history. With substance abuse as an underlying cause or contributor to criminality, the effect of alcohol and drugs on clients' actions and lives must be factored into each step of the justice process.

ROCS members feel it is important that services be located where they can be used by diverse populations, and that those services are assessed as to whether they are equally effective with minority populations. Multnomah County needs better information concerning referrals to treatment, such as: the rate of referral, if the referrals are to culturally-specific programs, and the rate of success of these referrals in comparison to other populations.

### **D. Develop a Long-Term Process for Monitoring Over-Representation**

There is a need for a leadership body to continue the call for work to be done in the area of monitoring and for decreasing unfair practices that contribute to over-representation. The body needs a sufficiently broad scope to be able to consider all components of the criminal justice system for Multnomah County. Based upon input from the ROCS Task Force, expectations must also be matched to the resources available for the work.

Some members of the ROCS Task Force envisioned a *Phase III* group being formed, while others suggested that the scope of existing groups be expanded to include these tasks, with leadership continuing to come from the LPSCC Executive Committee. Critical elements to be completed are:

- Review data collected through the DSS-Justice system; monitor for reduction of racial over-representation for currently affected groups, and for emergence of any new trends.
- Agencies collect data on their internal decision points and assist in drilling down further into the data that is gathered through DSS-J.
- Communicate results to agencies within the justice system, and to the broader community.
- Recommend actions or practices that would further reduce disparate representation.
- Take action during times of community focus on over-representation to provide accurate information, and to engage community members in productive dialogue on policies or practices that will result in fair and equitable treatment of all racial and ethnic groups.

## **V. Recommendations from the ROCS Task Force Work Groups<sup>e</sup>**

### **A. Arrest Work Group**

#### ***Reduce Failure to Appear (FTA)***

1. Develop a callback system using interactive voice response technology, similar to that used by Multnomah County libraries or King County District Court. The system, which should be multilingual, would automatically call people two or three days before the date of their trial or arraignment to remind them of what time they need to arrive in court.
2. Create a similar system operating through a toll free number. People could call in, say their last name or enter in their case number, and the system would provide the date, time, and place of their scheduled court appearance.
3. Supplement the callback system with postcards for those persons unable to provide a contact phone number, but having an address.
4. Improve the quality of citation ticket forms, which need to be more readable. Date, time, and place should all be prominent.
5. Ensure that probation and parole officers are notified of scheduled hearings and ask that they play a larger role in seeing that their clients make it to their court dates.
6. As a pilot project, open the Northeast Community Court for extended hours. When an offender is picked up on misdemeanor charges, they could be taken directly to community court for arraignment and case processing. Courts, Corrections, the District Attorney, Social Services and the Public Defender would need to be available to process the cases and administer services, but the decreased volume in jail, and costs associated the arrest, booking, and FTA warrants, might result in an overall savings.

#### ***Increase Ease of Availability of Variances to the Drug Free Zones***

*Note: Since the ROCS Task Force deliberations were completed and the writing of this report, the Court has recently made a ruling that changed how Portland's Drug Free Zones are enforced, making the following recommendations no longer directly applicable. The City of Portland and the District Attorney's Office are working to create a new ordinance to address the Court ruling.*

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<sup>e</sup> The recommendations as listed here appear in the order and with the content recommended by each Work Group, edited for clarity, to streamline language or to reduce duplication. The recommendations as given exactly by the Work Groups can be found in Appendix C.

1. Increase education and understanding about Drug Free Zones. The Public Defender and District Attorney should continue work on creating easy to understand variances.
2. Explore posting signs at the edges of Drug Free Zones.
3. Continue to look for ways to improve the variance process and other alternatives for issuing variances through the Community Court.
4. Ask the Portland Police Bureau to examine its policy for issuing variances to assure that access and availability of variances is equitable between precincts, and that appointments are not needed. Increased hours at precincts would be an asset to the variance process.

### ***Increase Communications on Frequently Booked Individuals***

1. Utilize the Sheriff's *Booking Frequency Project* to increase problem-solving efforts around the frequently booked population. For example, when a frequently booked individual is arrested, notification could be sent to those who are working with that person (mental health workers, parole/probation . . .).
2. Track the history of "frequent flyer" interventions. Tie the *Booking Frequency Project* in with LPSCC's Mental Health, Court, and Alcohol and Drug Working Groups.

## **B. Court Processes Work Group**

### ***Decrease Failures to Appear***

A shared concern with the Arrest Work Group, additional recommendations are:

1. Provide a hard copy of the next court date to defendant at Court.
2. Increase the information available on the location of Court facilities.
3. Work with Multnomah County Sheriff's Office to provide court dates to people when they leave custody.
4. Conduct further research on how *Failure to Appear* is connected to sentencing disparities and length of time in custody.

### ***Improve Research, Data Collection, Analysis and Utilization***

1. Research referrals, completion, and outcomes of diversion across racial lines.
2. Use the same racial breakdown in data collection for each agency in the justice system.

3. Complete the research project started by the *Court Processes Work Group* on the disparities found in the Grid Blocks 8-G, 8-H, and 8-I.
4. LPSCC should continue looking at over-representation; it should create an ongoing data collection process so that changes in over-representation can be measured over time, and it can be determined if changes in criminal justice policy impact over-representation.
5. Each criminal justice agency should continue looking at decision points within their organizations; adequate resources should be used to support such research, as well as the implementation of recommendations to improve the system.
6. Continue research on decisions surrounding sentencing, including feedback loops between the agencies and those doing the research.

### ***Assign Next Phase to Existing Groups***

1. Defer to existing groups to continue work important to addressing over-representation. Utilize the LPSCC *Court Work Group*, which is working on pre-trial reforms including FTAs, and replacement of subjective pre-trial release criteria with objective criteria. This would support the important work of assuring race does not influence the application of nonobjective factors in release decisions.

## **C. Corrections Work Group**

### ***Complete New Validation Study of Risk Assessments***

1. Encourage the Oregon Department of Corrections to complete a new *Validation Study of Risk Assessments*. The last validation study was completed in 1993 and is overdue to be revisited. The validation study should explore:
  - a. Differential impacts of the risk assessment instrument on racial groups, including whether the crimes being used as part of the scoring mechanism cause an increased likelihood of a high-risk score for minorities, without increasing predictability of risk to re-offend.
  - b. Whether the instrument is valid (meets a minimum validation level and predictive ability) with all demographic groups (race, ethnicity and gender).
  - c. How *Possession of a Controlled Substance* and *Delivery of a Controlled Substance* are weighted in the risk assessment, and if there is a difference in the success of the risk assessment for these two crime categories.

### ***Improve Data Analysis***

A shared concern with the *Court Processes Work Group*, with an additional recommendation:

1. The Department of Community Justice should continue work with the Department of Corrections to gain ongoing access to Multnomah County's data and allow this data to be in DSS-Justice.

### ***Examine Over-Ride Decisions***

Recognizing that over-rides<sup>f</sup> are a significant tool for allowing the local criminal justice system to tailor individual decisions to unique situations that arise, it is also necessary to create criteria and standards to suit our community. When a high percentage of cases are subject to over-rides, this may indicate that the risk assessment process does not meet the needs of the community.

1. The Department of Community Justice should identify and monitor separately the percentage of over-rides that are based on Department policy, and those that are based on individual decisions. Research and analysis should be done to learn the policies and practices behind individual discretionary over-rides.
2. Collaborative efforts through the LPSCC *Court Working Group* should continue to create clear, uniform procedures for over-rides.
3. The Department of Community Justice should collect and analyze data concerning risk assessments, over-rides, program outcomes, and other indicators of culturally competent practice on an annual basis.

### ***Examine Effect of Classification and Supervision on Risk Scores***

Much of the apparent differential in classification and supervision level, and subsequent sanctions while on supervision, was found to be a direct result of differences in the racial and ethnic composition of the probation population, compared to the population under post-prison supervision. As a consequence, post-prison/parole populations may be a driver of the higher risk scores of minorities in community supervision system.

1. Systematically assess factors in sentencing decisions, as well as other practices, that lead to more individuals of color sent to prison rather than jail, or jail instead of probation.

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<sup>f</sup> An over-ride is when a person's risk assessment score is believed to not be appropriate, based on public safety and local policy, and is changed to a different level of supervision (either higher or lower) than what the risk assessment score would indicate.

### ***Replicate Success of Juvenile Justice in Reducing Over-Representation***

The Department of Community Justice has achieved award-winning results in its Juvenile Justice system, in reducing over-representation in youth detention.

Key elements of their success have been identified as:

- Creation and use of objective criteria for who would be held in detention and who would be released, and application these criteria to all youth coming through the door. Once subjective criteria (such as “stable home life”) were eliminated, and only objective crime-related criteria used, racial over-representation for youths dramatically decreased.
- Extensive use of data for tracking of individual cases, feedback of success of policies and practices, and presentation of clear information on results.
- Development of alternatives to detention that allow for community supervision and treatment.

Thus:

1. Through the LPSCC *Court Work Group*, system leaders should work to pursue similar efforts of the *Juvenile Detention Reform Initiative* to the adult system.

#### **D. Outreach Work Group**

The group’s recommendations stem from the community outreach process, and are intended as a resource for future attempts to establish discourse on over-representation with the community.

### ***Recommendations for Community Outreach and Interaction***

1. The topic of discussion for an outreach meeting should foster communication or interest. Highly specific or limited topics may be unsuitable for attracting public enthusiasm. The term “over-representation” may be too academic to generate community interest.
2. Utilize natural opportunities to capture community interest, such as during a community crisis, when the community is interested in discussing current issues and events.
3. Participants need time to voice their concerns and share ideas and personal experiences. This type of sharing provokes the most sincere response from audience members.
4. A neutral and strong moderator is needed in order to move the meeting along and bring participants back together at the end of a meeting.

5. Education should be a priority at all meetings. After leaving, attendees should know more about how to contact and work with County and City agencies.
6. People organizing public forum events should carefully evaluate how they go about inviting people and publicizing the event. Available resources should be used, such as inviting clients or regular contacts, or using existing public meetings. Resources must be committed to bringing people to meetings.
7. An environment that fosters mutual respect and open discussion must be created. Differences of opinion must be tolerated.
8. Sufficient and consistent staff support is needed in any outreach process.

## **VI. An Ongoing Commitment to Address Over-Representation**

LPSCC and its members are committed to addressing and reducing the over-representation of minorities in the criminal justice system.

In *Phase I*, the Working Group brought all aspects of the criminal justice system to the table to talk about over-representation. Members took a first look at the data and confirmed and learned to what degree there was over-representation.

In *Phase II*, the ROCS Task Force was able to “dive down” further into some of the areas where over-representation was found to be highest (DUII, Trespass II, drug arrests, harsher sentences, risk scores, and sanctions for minorities under community supervision.) This could also be called the “gut check process,” where the process was opened to the public for a dialogue with the community to determine if the process was asking the right questions and headed in the right direction. *Phase II* recommendations suggested the need for a permanent process.

Moving into *Phase III*, LPSCC members know the work is not done, and interacting with the public is still needed and important. It is clear that this issue will remain on the minds of our elected officials and leaders. A permanent commitment to this issue is needed, within a structure that can be well managed and sustained over time.

Some members of the ROCS Task Force and Work Groups recommended a separate *Phase III* structure, while others recommended that continuing tasks be assigned to ongoing LPSCC working groups. The need for a stable structure, and the current lack of staff resources to support additional committees, strengthens the recommendation to use the expertise of ongoing LPSCC groups.

LPSCC should provide ongoing oversight for the issue of over-representation, and assign monitoring and development tasks to LPSCC work groups: Courts, Alcohol and Drug, Persons with Mental Illness, and Evaluation Resource Group, with leadership from the Executive Committee.

Key follow-up areas are:

### **Leadership: LPSCC Council and Executive Committee**

Leaders in each organization are agreed that reducing over-representation is an issue we will continue to work towards in Multnomah County. Organizations will regularly review compiled data against their decision points and discuss needed changes within and among organizations.

### **Data Collection and Analysis: LPSCC Evaluation Resources Group**

The DSS-Justice system compiles data from all agencies into a comprehensive database that allows analysis across the justice system. Leaders of justice agencies have expressed a strong

commitment to collect, input, and analyze data about defendants, cases, and clients. Tasks include:

1. Agencies should review DSS-Justice data elements to ensure that all important case decisions, and factors in making those decisions, are entered into the system.
2. Other local jurisdictions and state-level databases need to be linked into DSS-Justice.
3. Areas where there are questions or need for drilling down (more research) should be referred to the respective organizations to do the follow-up work.
4. LPSCC should develop analysis capacity, either as dedicated LPSCC support, identified staff from constituent agencies, or contract with outside support. This capacity should include statistical and policy experience to develop analytic models and to use DSS-Justice to provide an overall system perspective.
5. The Group should review data from each agency and aggregate it, including racial profiling, to create an annual report to LPSCC on progress made and changes in the baseline data.

### **Policy and Practice: LPSCC Court Work Group**

1. Examine various decision points, policies that exist, and areas of discretion; recommend changes that increase fairness and equity in the justice system. Pursue pre-trial reforms and other efforts similar to the Multnomah County Juvenile Justice Department.

### **Policy and Practice: LPSCC Alcohol and Drug Work Group**

1. Continue work to examine the effect of substance abuse on over-representation. Examine how policies and practices can improve outcomes for those affected by substance abuse and recommend changes that increase fairness and equity in the justice system.
2. Incorporate consideration of accessibility of A&D services and effectiveness of services across racial and ethnic groups, and make recommendations on effective strategies for addressing alcohol and drug issues of adult and juvenile offenders.

### **Policy and Practice: LPSCC Persons with Mental Illness in the Criminal Justice System Working Group**

1. Examine how policies and practices can improve outcomes for those affected by mental illness and recommend changes that increase fairness and equity in the justice system.

2. Incorporate consideration of accessibility of Mental Health services and effectiveness of services across racial and ethnic groups; make recommendations on effective strategies for addressing mental health issues of adult and juvenile offenders.

### **Continued Vigilance and Raising the Issues: LPCSS Executive Committee**

1. Monitor for changes in trends in over-representation arising from the data, trends within the system, or from the community. Alter the course as needed to examine and correct any undesirable trends.
2. Keep the issue of over-representation on the LPSCC Executive Committee agenda, and discuss struggles, progress and barriers to getting the work done.
3. Report at the annual LPSCC meeting and confirm progress and direction.
4. Be available to speak to community groups and share what is being done. Be ready to work with the community in time of crisis to talk about this issue.<sup>9</sup>
5. Encourage County Commissioners, City Councilors and their staff to ask questions about the impact on race of new policy decisions.
6. Raise the issue of impact of policy and practice on over-representation consistently, through public process, regular meetings, and meetings with department leaders.
7. Identify points where citizens can get involved in prevention issues. Identify how other systems are dealing with over-representation issues in health, education, and other areas. Create effective partnerships between these efforts and the entire justice system.

Members of the *Racial Over-Representation Task Force* believe the above actions will further the efforts to achieve fair and equitable treatment of all people within the criminal justice system, regardless of race or ethnicity. However, these actions are not all that must be done. It will require continued participation and support of citizens, and a coordinated effort among community organizations, faith groups, educational institutions, and social service providers to achieve meaningful success. The ROCS members ask that LPSCC continue in this process to move towards a more fair and equitable system.

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<sup>9</sup> During the ROCS process the police were called into a secure mental health treatment facility which resulted in the death of Jose Mejia Poot. During that time, it became abundantly clear that there is a need for a group who can go into a community to provide a forum on race, social services, and police practices immediately.

## **APPENDICES**

**Appendix A: Racial Over-Representation in the Criminal Justice System (ROCS) Task Force Members**

**Appendix B: The Local Public Safety Coordinating Council (LPSCC)**

**Appendix C: Work Group Recommendations, As Presented by the Work Groups**

**Appendix D: Outreach Work Group Community Meetings**

**Appendix E: Suggestions from Process Participants**

**Appendix F: *Working Group on Minority Over-Representation in the Criminal Justice System, October 2000 Report, Executive Summary, and Introduction***

## **Appendix A: Racial Over-Representation in the Criminal Justice System (ROCS) Task Force Members**

**Co-Chairs:** Rev. Ronald Williams, Pastor, Bethel AME Church  
Michael Shrunk, Multnomah County District Attorney

**Members:** Daniel Binns, Citizen  
Tiffany Brandreth, Youth Opportunity Center  
Woodrow Broadnax, Citizen  
Rev. Felton Campbell, Citizen  
Hongsa Chanthavong, Asian Family Center  
Elyse Clawson, Multnomah Co. Dept. of Community Justice  
Robyn J. Cole, Oregon Youth Authority  
John Connors, Metropolitan Public Defenders  
Serena Cruz, Commissioner, District 2  
Jim Ellis, Presiding Judge, Multnomah County Courts  
Bill Feyerherm, Portland State University  
Bernie Giusto, Chief, Gresham Police Dept.  
Art Hendricks, Office of Neighborhood Involvement  
Y'beth Iglesias, Oregon Council for Hispanic Advancement  
Roy Jay, African-American Chamber Commerce  
Vera Katz, Mayor, City of Portland, Honorary Member  
Mark Kroeker, Chief, Portland Police Bureau  
Ray Mathis, Citizens Crime Commission  
Dan Noelle, Sheriff, Multnomah County  
Kris Olson, US Attorney, Citizen  
Tawna Sanchez, Native American Youth Assn.  
Donna Sheidun, Black Youth Political Action Committee  
Pedro Sosa, VOZ Workers Rights Education Project  
Ronita Sutton, Victim Rights Advocate Multnomah County  
Oscar Sweeten-Lopez, Centro Hispano/ Hispanic Access Ctr.  
Kay Toran, Volunteers of America  
Michael Ware, Out Front House Inc.  
Preston Wong, Office of Neighborhood Involvement

**Work Groups:** **Arrest:** Chair Bernie Giusto, Gresham Police Chief  
**Community Outreach:** Chair Art Hendricks, Crime Prevention Program, Portland Office of Neighborhood Involvement  
**Corrections:** Chair Bill Feyerherm, Portland State University  
**Court Processes:** Chair Michael Ware, Out Font House

## **Appendix B: The Local Public Safety Coordinating Council (LPSCC)**

The Local Public Safety Coordinating Council for Multnomah County is governed by an Executive Committee. LPSCC carries out the bulk of its efforts through working groups that have been charged to address the identified priority areas. Standing working groups are: the Alcohol and Drug/DUII Advisory Board, Persons with Mental Illness in the Criminal Justice System, Court/Pre-trial, and the DSS-Justice Policy Committee. The Executive Committee meets monthly and regularly monitors the progress of the working groups.

On an annual basis, LPSCC meets to review progress, identify upcoming issues, and address areas of interest. Members who serve on the LPSCC are (\* indicates Executive Committee Members):

**Chair:** Commissioner Lisa Naito, Multnomah County, LPSCC Chair\*

**Members:** John Ball, Interim-Director Department of County Human Services\*  
Mike Balter, Executive Director of the Boys and Girls Aid Society  
Mayor Charles D. Becker, City of Gresham  
Arwen J. Byrd, Citizen/Survivor of Crime  
Judge Frantz, Circuit Court Multnomah County\*  
Joanne Fuller, Director Department of Community Justice\*  
Robyn Cole, Oregon Youth Authority  
Commissioner Serena Cruz, Multnomah County\*  
Judge Ellis, Presiding Judge\*  
Professor Bill Feyerherm, Portland State University  
Chief Bernie Giusto, Gresham Police Department\*  
Judith Hadley, Citizen\*  
Lt. Travis Hampton, Oregon State Police  
Jim Hennings, Director Metropolitan Public Defenders Office\*  
Art Hendricks, Office of Neighborhood Involvement  
Linda Jaramillo, Violence Prevention with Multnomah County  
Mayor Vera Katz, City of Portland\*  
Judge Koch, Circuit Court Multnomah County\*  
Chief Mark Kroeker, Portland Police Bureau\*  
Judy-Ellen Low, Citizen  
Maggie Miller, Citizens Crime Commission\*  
Senator John Minnis\*  
Michael Mosman, United States Attorney District of Oregon\*  
Sheriff Dan Noelle\*  
Dr. Gary Oxman, Multnomah County Health Department  
Chiquita Rollins, Domestic Violence Prevention, Multnomah County\*  
Commissioner Saltzman, City of Portland\*  
Michael D. Schrunk, District Attorney\*  
Tiana Tozer, Citizen/Victim Advocate

## **Appendix C: Work Group Recommendations, as presented by the Working Groups.**

### **Arrest Working Group**

#### ***A. Concerning Failures to Appear***

1. Develop a call back system using interactive voice response technology, similar to the call back system used by the Multnomah County libraries or in King County District Court, Washington. This system would automatically call people two or three days before the date of their trial or their arraignment to remind them of what time they need to arrive in court. The phone system should be multilingual.
2. Related to the automatic calling system would be the creation of a similar system run off of a toll free number. This way people could call in and say their last name or type in their case number if they have it, and it would provide them with the same information as the call back system (date, time, place).
3. Improve the quality of the citation ticket forms, with the criteria for the new forms being that they are more readable than the present forms. Date, time, and place should all be prominent.
4. Ask probation and parole officers to play a larger role in seeing that their clients make it to their court dates.
5. As a pilot project, open the Northeast community court for extended hours. When an offender is picked up on misdemeanor charges (including Drug Free Zone Criminal Trespass charges), he/she would be taken directly to community court for arraignment and case processing. The Courts, Corrections, District Attorney, Social Services and Public Defender, would need to be available to process the cases and administer services. Although this proposal might require significantly more resources than are presently expended at community court, the decreased volume in the jail, and costs associated the arrest, booking, and FTA warrants might result in an overall savings to the criminal justice system.

#### ***B. Concerning Criminal Trespass II/Drug Free Zone Variances***

1. Explore and pursue avenues to increase the education and understanding around Drug Free Zones. The Public Defenders and District Attorney's Office should continue work towards creating easy to understand variances.
2. Explore posting signs at the edges of Drug Free Zones.
3. Continue to look for ways to improve the variance process and other alternatives for issuing variances through the Community Court.

4. Ask the Portland Police Bureau to examine its policy for issuing variances to guarantee that access and availability of variances is equitable between precincts and that they can appointments are not needed. Increased hours at police precincts is a great asset to the variance process.

**C. Other:**

1. Incorporate the Sheriff's Booking Frequency Project so that when a frequently booked individual is arrested a signal is sent to the officer, mental health workers, and parole/probation officers. If possible, integrate the entire tri-county area into this project. Track the history of "frequent flyer" interventions. Tie the Booking Frequency Project in with LPSCC's Mental Health, Pre-trial, and Alcohol and Drug working groups.

**Court Processes Working Group**

1. Pursue efforts to decrease Failures to Appear.
  - a. Provide a hard copy of next court date to defendant at court.
  - b. Increase information available on the location of court facilities.
  - c. Work with MCSO to provide court dates to people when they leave custody.
  - d. Research and pursue efforts to implement a court-date notification system similar to that in place in King County, Washington.
2. Test the Hypothesis – Conduct further research on how FTAs are connected to sentencing disparities and length of time in custody.
3. Research referrals, completion, and outcomes of diversion across racial lines.
4. Each agency in the criminal justice system should use the same racial breakdown in their data collection.
5. Complete the research project started by the Court Processes Working Group on the disparities found in the Grid Blocks 8G, 8H, and 8I. The Working Group needs to meet again to look at the results of this project and make recommendations based on the research analysis.
6. The Local Public Safety Coordinating Council should continue looking at over-representation through one working group. Such a process should work to create an ongoing data collection process so that changes in over-representation can be measured over time and so it can be determined if changes in criminal justice policy impact over-representation. The working group should contain members with a high level of understanding in the system.

7. Each criminal justice agency needs to continue looking at decision points within their organizations and adequate resources should be used to support such research and the implementation of recommendations to improve the system.
8. Efforts should be made to duplicate the work of the Department of Community Justice in the area of juveniles into the adult system.
9. Research in the decisions surrounding sentencing needs to continue. Proper feedback loops between the agencies and those doing the research should be included in any research project.
10. Duplication of work efforts should be minimized; defer to already existing groups to continue work that has been identified to be important to addressing over-representation. For example, defer to existing groups such as the LPSCC Court Work Group, which is working on pre-trial reforms and FTAs, to be the leaders in these areas. The Court Work Group has been diligently working to replace, to the extent possible, subjective pre-trial release criteria, with objective criteria. This is important work in assuring race does not influence the application of nonobjective factors in release decisions.

### **Corrections Working Group**

1. The Local Public Safety Coordinating Council and Multnomah County should recommend and encourage the Oregon Department of Corrections to regularly undertake a validation study of the Risk Assessment instruments. The last validation study was completed in 1993, and is now due to be revisited.
  - a. The validation study should explore differential impact of the instrument on various racial groups. Part of this should be the exploration of crimes being used as part of the scoring mechanism. The degree of over-representation increases in the convictions for certain crimes. Do the crime categories used in the scoring mechanism cause for an increased likelihood of a high-risk score for minorities without increasing predictability of risk to re-offend?
  - b. The validation study should not only explore differential impact, but also whether the instrument is equally valid (or at least meets some minimum level of validation and predictive ability) with all demographic groups (race, ethnicity and gender)
  - c. Since it appears that substance related issues have a major contribution to high scores for minority clients, the validation study should explore how the Possession of a Controlled Substance and the Delivery of a Controlled Substance are weighted in the risk assessment and if there is a difference in the success of the risk assessment for these two crime categories.
2. The Department of Community Justice should continue to work with the Department of Corrections to gain ongoing access to Multnomah County's data in ways to allow

analysis of the systems that are in place. This should include efforts to include Department of Corrections' data about Multnomah County cases in the DSS-Justice system.

3. Recognizing that over-rides are a significant tool that allows the local criminal justice system to tailor individual decisions to unique situations that arise, it is also necessary to create criteria and standards that best suit our community. When a high percentage of cases are subject to over-rides, this may indicate that the risk assessment process does not meet the needs of the community.
  - a. The Department of Community Justice should identify and monitor separately the percentage of over-rides that are based on Department policy and those that are based on individual decisions. Research and analysis should be done to learn the policies and practices behind individual discretionary over-rides.
  - b. It is important that the collaborative effort through the LPSCC Court Work Group continue to create clear, uniform procedures for over-rides.
4. The Department of Community Justice should collect and analyze the data concerning risk assessments, over-rides, program outcomes and other indicators of culturally competent practice on an annual basis and report them to LPSCC.
5. The Work Group found that much of the apparent differential in classification and supervision level was a direct result of differences in the racial and ethnic composition of the probation population compared to the population under post-prison supervision. As a consequence, post-prison/parole populations may be a driver of the higher risk scores of minorities in the corrections system. The Work Group believes that differences in sentencing, as well as other practices which lead individuals to secure custody (such as probation violation sanctions) need to be systematically assessed.
6. Recognizing the award winning work components related to disproportionate minority confinement that the Department of Community Justice has embarked on in its juvenile justice, the Corrections Work Group encourages the Department to apply similar processes and vigor to ensuring equitable treatment for adult clients, both probationers and those under post-prison supervision.

## **Outreach Working Group**

The following list of recommendations stems from the community outreach process and is intended to be a resource for any future attempts to establish discourse with the community.

1. The topic of discussion for an outreach meeting ought to foster communication or interest. As such, highly specific or limited topics may be unsuitable for attracting a great deal of enthusiasm from the public. The term over-representation itself may be too academic to generate community interest.

2. Utilize opportunities to capture the community interest. Outreach efforts might be the most successful during a community crisis. During these times the community is interested in discussing current issues and events.
3. There ought to be time for participants to voice their concerns and to share their ideas and personal experiences. This type of sharing seems to provoke the most sincere response from audience members.
4. A neutral and strong moderator is needed in order to move the meeting along and bring participants back together at the end of a meeting.
5. Education should be a priority at all meetings. A meeting would be educational if, after leaving, attendees knew more about how to work with, and contact, county and city agencies than they were before the meeting.
6. People organizing public forum events ought to carefully evaluate how they go about inviting people to, and publicizing the event. It is important to capitalize on available resources, such as inviting clients or regular contacts, taking advantage of existing public meetings, etc. Resources must be devoted to bringing people to meetings.
7. Decorum should be prioritized at all times. It is critical to create an environment that fosters mutual respect and open discussion. Differences of opinion must be tolerated.
8. Sufficient and consistent staff support is needed in any outreach process.

## **Appendix D: Outreach Work Group Community Meetings**

The Outreach Work Group was asked by the Arrest Work Group to pursue a community dialog on three areas: Driving while Under the Influence of Intoxicants, Trespass II Arrests in Drug Free Zones, and Failure to Appear. The following points summarize findings from these three community meetings, which used an input format; because the meetings were not focused on reaching a consensus, none of the findings necessarily represent a majority of the audience.

### **General Themes: All Meetings**

- People attending wanted to talk about the prevention of racial over-representation as much, or even more than, about racial over-representation in the criminal justice system. They asked why representatives from the schools and business community were not present, and said a lack of education and job opportunities contribute to over-representation as much as any of the scheduled topics.
- Misunderstandings of cultural differences were seen as a contributing factor to racial tensions between the minorities and those working in the criminal justice system.

### **Driving Under the Influence of Intoxicants**

Meeting Summary: October 23, 2001, Baltazar Ortiz Community Center, 20 attending.

- Attendees seemed to misunderstand the laws regarding driving while intoxicated. Many believed the law is based on a qualitative distinction between “drunk” and “not drunk”, when the law is based on quantifiable levels of intoxication (.08% blood alcohol content).
- Social pressure and cultural norms can be motivators to drive while impaired in order to avoid various pejorative labels. For example, men may feel that they would lose face if they did not drive their own cars after drinking.
- Some attendees believe they receive biased attention from police officers, and that there is a disconnect between what they have been stopped for and what they are charged with.
- Difficulty understanding complex technical and legal terms, and language barriers, results in confusion and frustration with the legal system.

### **Trespass II Arrests in Drug Free Zones**

Meeting Summary: November 7, 2001, Blazers Boys and Girls Club of Portland, 17 attending; and November 27, 2001, Sisters of the Road Café, 22 attending.

*Note: The Courts have overturned Portland's Drug Free Zone ordinances, so many of these comments and concerns no longer apply.*

- Feelings about Drug Free Zones (DFZs) are mixed and passionate.
  - Opponents claim they have been unfairly targeted, that experiences with current DFZs have made them resent the system, and that exclusions did nothing worthwhile to help them change their lifestyle.
  - Supporters felt that any negative consequences, such as the possibility of racial over-representation, were tolerable because of the positive effects the law has had on their neighborhood.
- Participants felt that a discussion of racial over-representation should not focus on DFZs, because while racial over-representation is a nationwide phenomenon, DFZs are not.
- Some felt that variances to DFZ designation were too difficult to obtain, and too restrictive once they are obtained. Many social services used by supervised individuals are located within DFZs, and believe the system for variances feels very cumbersome. Some felt that criminals use their variances to get away with committing more crimes within the DFZs.
- While some people support DFZs, they do not necessarily want excluded individuals to go to jail for a violation. There is support for exploring additional options for treatment and punishment that are less onerous than going to jail.
- Drug treatment and drug-use prevention were seen both as an important preventative measure, and a necessary services for people arrested in a DFZ.

## **Failure to Appear**

Meeting Summary: from all three community meetings listed above.

- Participants believe that fear, pride, and misunderstanding of the court system all play into a person's failure to appear in court. Fear, because some are afraid penalties will be harsh, or that they will automatically be incarcerated if they appear in court. Pride, because they may be unable to pay all the various fines and fees in one lump sum.
- Language barriers, poorly translated tickets, and complex legal language also act as impediments for appearing in court.
- Many people lead disorganized lifestyles, and adjusting their lifestyles to fit within a structured system, such as that imposed by the courts, is difficult.
- Some people do not go to court simply because they do not want to go. In these cases, failure to appear is deliberate.

## **Appendix E:      Suggestions from Process Participants**

*Suggestions, reactions and comments have been gleaned from the three community meetings, plus ROCS and Work Group meetings over the past year. These can serve to inform future work in the area of ethnic and racial over-representation.*

### **Overall Process**

The **ROCS Task Force process** (Phase II) locked into one or two questions/research projects without discussing other issues, such as diversion. In the future, priorities should be clearly identified, community members included, and a facilitator used to help the group stay focused and on track.

Each participating agency must **examine and take responsibility** for their part. Clear commitment to dealing with issues surrounding fairness and equity in the system is needed.

The group should **test their hypotheses**. In areas like Failure to Appear (FTA), there is a sense that a FTA record is tied to longer sentences, but there is no data to show whether this is true or not. Before deciding how to respond, the data and each hypothesis should be explored.

Consistent and **adequate staff support** is needed for the process. With five work groups, there was not enough staff to go around. Staff tasks must be manageable, or resources increased.

**Asian and Native American populations** have not been well integrated into discussions on over-representation. With smaller numbers, and because they are not over-represented at every step, they too often are dropped from the discussion. Each has specific needs re: language issues, reasons for not understanding the system, and culturally competent services.

**Victims of the crimes** committed must be remembered in the process; there is a toll that the community and victims have taken because of the things that people do.

Each criminal justice organization needs an **effective system to handle and document citizen's complaints**. Those, which have such structures, may need improvement.

**Criminal justice system leaders and the elected officials** that they report to must continue to treat this as a serious issue and tell their organizations that work must continue in this area.

**The goal of fairness should be primary**; numbers alone can't guarantee fairness and justice.

### **Outreach and Public Input**

The ROCS Task Force was surprised by **the community's need to talk**, resulting in adjustments to their immediate direction. This learning should be incorporated into future processes.

The over-representation issue needs to be **translated outwardly to the community**, and discussed with a broad group of people.

Future processes should identify specific areas that need community input. **Outreach efforts should be targeted to specific groups with actual first-hand experience** with the issue.

**Future outreach efforts should be conducted through existing groups.** Staff support should be provided to such groups to hold a discussion on topics pertinent to over-representation.

**Methods for hosting Outreach meetings should be revised.** Turnout was less than expected. The best-attended meeting was hosted by an existing community group, while the others used community venues, without a group's endorsement or coinciding with a regular meeting. The successful meeting was about DUII, a topic of general interest, while the unsuccessful meetings were about DFZs, Trespass, and FTAs, all specific technical policies. Forums on general topics may yield greater attendance.

The Outreach group discussed the possibility of **conducting surveys and collecting open-ended comment cards** from the audience at future community forums.

**Additional funding for outreach events** may have helped to make the process more successful.

There needs to be **follow-up with a community group after a forum**, with a report back to the group explaining how their contributions were used, and answering any questions they have.

**Results of this work need to be shared** so the public knows there is progress. The community they wants to know about the work that is being done.

The criminal justice system should **educate community-based organizations**, including faith communities, about how the criminal justice system works. There are intermediaries already working to help people problem-solve with government agencies, who could be tremendous resources to both the community and the system. There is a high cost of people not being able to figure out the system, or experiencing fear of the system itself.

## **Dialogue on Race**

It is **difficult to talk about race** and hold it in the confines of criminal justice. Bigotry is in all places; poverty and education are big parts of the issue. It might be more helpful discuss this in a way that allows for dialogue among leaders and people on a broader range of issues.

Although time for public input was created at each ROCS Task Force Meeting, and efforts were made to outreach to the community, a true dialog with the community on race and crime did not occur. **Open discussions on race and crime are needed**, as well as time for the community to speak directly to the leaders of the criminal justice system.

It was **difficult to balance work on over-representation with an open dialog on race**, allowing the community time for input and to share their stories. The ROCS Task Force had more of a public hearing environment than an opportunity for dialog and sharing.

A person's **experiences and perceptions should not be discredited** simply because the available data does not support what they are saying. If there is a perception of unfairness, and

indicators of inequities, then there is work to be done. Good data and research is needed, but data should not be required before accepting that racism exists.

**Discussions on the use of resources** (such as how to make community courts more efficient, and how to avoid overcrowding the jail) may eventually lead to more efficient utilization and decrease overrepresentation, but **are not necessarily relevant to race.**

**Diversity is not the same as being culturally competent.** Organizations must do more than recruit diverse staff; staff must be capable of serving the diverse clients.

## **Arrest**

**Policies that drive arrest**, and what happens to someone after they are arrested, need more examination. Resources must be available to officers other than taking people to jail.

**Consistent participation of police agencies** is necessary in look at over-representation; they must be at the table working on this issue.

The Portland Police **Blue Ribbon Panel's work on traffic stops** should continue with regular reports back to LPSCC and the community; other police agencies should do the same.

**There is a direct correlation between calls for service, and arrest.** An analysis of arrests must include the diversity of the community, calls for service, and the number of police officers in an area. Responding to community needs and calls for service is critical to public safety.

## **Court Processes**

**A record of FTAs should not be used in sentencing;** convictions should be the basis.

**Continue to develop and expand the community court model**, where community organizations can help defendants immediately access services. Try to model the Midtown Community Court; having all social and educational resources in one place is more effective.

Cases that fall into grid blocks 8G, 8H, and 8I need to be examined, but could not be because files weren't provided until late in 2001. **Cooperation and timely access to the data is needed.**

**Measure 11 crimes need to be examined in the future.** Data is available, and the policies are very clear, but this issue was dropped.

**People must understand where they can go to get answers**, such as about whom to call if they miss a court date, or lose a job and can't pay their fine. Being passed around is not effective. Offenders and their families need a place to ask questions about the charge and the sentence.

## **Supervision**

**Alternatives to incarceration need exploration.** For example, a kiosk system where people on supervision can go and check-in electronically with the criminal justice system.

## **Data Collection and Research**

**Uniform standards** for determining and reporting race must be established to have reliable data.

An **ongoing data collection process must be created** that allows us to see the impact of our decisions, and connect policy decisions to outcomes across racial lines.

A **clear written research proposal should be created** prior to every research project, covering: the purpose of the work, what questions are to be answered, how data will be collected, how the host agency will be included in the process, and how results will be released.

## **Prevention**

There must be a **continued focus on early intervention and childhood development**, to help prevent youth and adults from becoming involved with criminal justice. More discussion on how to prevent people from getting into the system is needed, such as **forums on prevention**.

**Appendix F: Working Group on Minority Over-Representation in the Criminal Justice System, October 2000 Report, Executive Summary and Introduction**

*Ensuring Equitable Treatment in the Criminal Justice System:  
Addressing Over-Representation of Racial and Ethnic Minorities  
An Assessment and Action Plan*

*October 2000  
Executive Summary*

This is the first report of the Multnomah County Public Safety Coordinating Council's Working Group on Minority Over-Representation in the Criminal Justice System. District Attorney Michael D. Schrunk chairs the Working Group. The Working Group focused its attention on the key decision points within Multnomah County's criminal justice system and its individual agencies that have the greatest potential for contributing to the over-representation of racial and ethnic minorities in the system.

The Working Group first considered the general social and economic conditions that may contribute to racial and ethnic inequality in this country. These conditions are matters of great concern, and are obviously important to the issue of minority over-representation. However, they are largely out of the control of the justice agencies in Multnomah County or the Public Safety Coordinating Council. In order to make a meaningful contribution to remedying any unfair causes of over-representation, the Working Group focused its attention on areas within the criminal justice system that are under the direct control of justice agencies.

In the course of its assignment, the Working Group adopted the following **definition of over-representation**, now used widely across the country:

*a greater percentage of a particular racial or ethnic group within a community's criminal justice population than that group's percentage within the community's general population.*

The statistical and demographic evidence compiled by the Working Group confirms that over-representation, as defined, clearly exists in Multnomah County. That fact alone calls for aggressive action. First steps must be taken to ensure that any discriminatory or unfair practices, which may be contributing to over-representation in Multnomah County, are detected and eliminated. This must be done in order to assure all of the County's citizens and communities that their criminal justice system is being administered fairly and equitably.

The existence of over-representation, by itself, does not necessarily mean that decisions, practices or policies within a criminal justice system are discriminatory or unfair. As already

mentioned, economic and social conditions may contribute to over-representation. Rapid and effective police responses to reported crime and calls for service within communities of color will also contribute to the number of people of color in the system. On the other hand, if persons of color who are accused of crime experience negative outcomes (such as pre-trial incarceration, imprisonment or probation revocations) in disproportionate numbers as they proceed through the criminal justice system, that circumstance would be cause for added concern and further investigation. And, if further investigation uncovered unfair practices or policies, then effective and lasting remedies should be developed and implemented without delay.

Because issues of over-representation are so important and complex, and because they raise deeply-held concerns by citizens and communities throughout the County, the Working Group adopted the following **Operating Principles** to express its shared values and commitment to this effort and to serve as guidelines on how to proceed with the challenging work before it:

- 1. The concept of “over-representation” must be clearly defined and understood.** Over-representation is a statistical fact that may or may not be evidence of unfairness or discrimination within the criminal justice system. The fact of over-representation alone does not establish its cause. But its existence necessitates further investigation.
- 2. The Working Group and the Council should focus on identifying areas of over-representation and addressing areas of unfair over-representation that are within their control.** There are many causes of over-representation. The Public Safety Coordinating Council should focus on those where its participating agencies do have control.
- 3. Both the perception and the reality of inequities in our criminal justice system are important.** The effectiveness of any justice system depends upon the community’s shared perception that it operates fairly and equitably.
- 4. There are no immediate, short-term solutions to the public perceptions and realities of over-representation.** The causes of over-representation are many and complex. Opinions and viewpoints about these causes are diverse and strongly held. Debates among scholars, professionals and citizens have gone on for decades. Action must begin now, as the Working Group is proposing.
- 5. Some data relevant to over-representation are not readily available or reliable.** The public safety system has not yet collected all of the data necessary to understand this problem. In order to address over-representation on a permanent basis, a comprehensive, automated data collection process must be established that collects and reconciles data from all of the criminal justice agencies in the County. Fortunately, the development and implementation of such a process, called the Decision Support System, is well under way.
- 6. Many public policies, within and outside of the criminal justice system, affect the extent of minority over-representation.** Policies such as federal enforcement of immigration and narcotics laws or the local enforcement of street crime, may contribute to over-representation. Each must be examined.

- 7. Any action plan adopted by the Council needs additional community input in order to be credible and effective.** The Working Group is not large enough or inclusive enough to reflect the diversity of background and perspective necessary to address a pressing community issue like over-representation. A community outreach process must be established that ensures a dialogue with citizens and communities across the County about all of the causes of over-representation and about the possible remedies.

**Recommendations:** There are issues of racial over-representation to address in Multnomah County. Decisions about appropriate and effective action will require the involvement of additional community leaders and the support of policy makers. While the data analyzed here demonstrate that racial over-representation does exist, the Working Group believes that the dynamics are complex and not fully understood. The causes and solutions for racial/ ethnic differences seen at key decision points are not yet clear. In accordance with the above Operating Principles, the Working Group makes two recommendations to begin taking action.

- 1. The Local Public Safety Coordinating Council should appoint a Task Force charged with developing an action plan that identifies effective, immediate, short-term and long-term strategies to address and reduce the trend of minority over-representation.** The Task Force will include some members of the current Working Group as well as minority community leaders and criminal justice professionals. This diverse Task Force will determine the most effective means to garner public input regarding over-representation.
- 2. Establish a permanent process of uniform data collection and analysis with systems for feedback and correction including:**
  - ✓ *generate possible explanations for disparities in key decision points within the criminal justice system;*
  - ✓ *collect additional data that serve to support or reject those possible explanations;*
  - ✓ *where possible, use existing agency data sources to generate this data;*
  - ✓ *assess this data, review sample case files and interview decision makers to better understand the dynamics at work at key decision points;*
  - ✓ *if the foregoing information confirms unfair practices or decisions, design a strategy to address the resulting disparities.*

**Overview of Data Findings:** The Working Group began its assessment by identifying and analyzing data from four key decision points in the justice system: arrest, prosecution, sentencing, and supervision.

**Arrests:** This analysis shows that over-representation of racial/ ethnic minorities permeates most crime categories. There are variances within some specific crimes but these do not account for the entire difference. For example, although African Americans have the highest degree of over-representation for drug crimes, they are over-represented in most other crime categories as well.

**Prosecution:** Rates of prosecution, dismissal, and guilty verdicts are fairly consistent across racial/ ethnic groups. Some crimes are prosecuted at higher rates than others and may impact over-representation. Data regarding court appointed attorneys and plea bargain results were unavailable but may also be relevant to equitable treatment in prosecution.

**Sentencing:** Harsher sentences are more often applied to people of color. Similarly, lenient options are more often granted to white offenders. Sentences are often negotiated as a plea bargain between prosecution and defense.

**Supervision:** African Americans are more often assessed at high risk to re-offend. Similarly white prisoners are more often assessed at limited risk to re-offend. The Risk Assessment Tool considers past criminal history, current conviction, substance abuse issues and behavior.

Unfortunately, information was not available or was inadequate in several areas that may be crucial for the dynamics of over-representation: victims, pre-trial holds, plea agreements, and publicly funded versus privately retained defense, among others. In the future, the Working Group anticipates analyzing additional data beyond what is included in this report. Specific areas that may increase over-representation can be difficult to analyze at the overall aggregate level, calling for detailed analysis of specific racial/ ethnic groups and certain types of crimes at each decision point in the criminal justice process.

**Additional Features of This Report:** In addition to the recommendation to set up a permanent monitoring process and the presentation of the data at each decision point, a number of local justice agencies offer additional and more detailed information. In the Arrest section, there is a description of non-racial factors that affect arrest. A closer look at arrests in the city of Gresham, where the racial composition differs from that of the larger city of Portland, also appears in the Arrest section. The Department of Community Justice presents data on the process of criminal supervision, where offenders on probation or post-prison supervision (formerly parole) are assigned different “risk scores” that influence their future handling by justice officials. The Sheriff’s Office, the District Attorney’s Office, and the Multnomah County Courts also contribute important data. Appendix materials include background information on the Public Safety Coordinating Council, the Over-Representation Working Group, justice system employee diversity, a glossary, Oregon Sentencing Guidelines, and a bibliography of the literature.

# ***Ensuring Equitable Treatment in the Criminal Justice System:***

## ***I. Introduction***

### ***Charge to the Working Group, and Its Recommendations***

In June 1998, Multnomah County's Public Safety Coordinating Council identified the existence of any racial or ethnically-based disparities in decisions involving the administration of criminal justice as a priority issue for assessment and action by the Council.<sup>a</sup> Accordingly, **the Council formed a Working Group on Minority Over-representation in the Criminal Justice System,**<sup>b</sup> chaired by District Attorney Michael D. Schrunk. The goals of this Working Group were to:

- (a) **Assess the operation of the justice system within the County** to determine if, and to what extent, racially or ethnically-based<sup>c</sup> decision-making and disparity exists in Multnomah County's criminal justice system; and
- (b) **Report back to the Council with an Action Plan** that includes an assessment of this issue and recommendations to reduce any disparate practices and inequitable conditions that may exist in the system.<sup>d</sup>

**This report represents only the first of what the Working Group expects will be a series of Action Plans to respond to these goals.** Future reports will address why over-representation is found more in certain areas, and what strategies might reduce unfair over-representation. In the current report the Working Group focuses on identifying appropriate data for analyzing these issues.

The Working Group concludes that the issue of minority over-representation is far too complex to analyze or resolve in one report or in one set of recommendations. This report calls for the establishment of a permanent, ongoing process to monitor, analyze and address any unfair decisions or practices, to ensure that everyone involved in Multnomah County's criminal justice system is treated equitably. In particular, **the Working Group recommends to the Council** that:

**Recommendation 1. A Task Force be created to engage the public in the coming year,** particularly within communities of color, to ensure a mutual understanding among citizens and policymakers about the issue of over-

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- <sup>a</sup> Information about the Local Public Safety Coordinating Council, its purpose and its membership is included in the Appendix.
  - <sup>b</sup> A list of the Working Group's members is included in the Appendix. *[See original Report]*
  - <sup>c</sup> Following the example of the Census Bureau, we have examined racial / ethnic groups (White, African-American, Hispanic, Native American, Asian and Pacific Islanders).
  - <sup>d</sup> This report addresses goal (a) and begins to address goal (b). Additional efforts of the Local Public Safety Coordinating Council will work to meet goal (b).

representation and about effective strategies to address it so that the Working Group’s findings and recommendations and the Council’s resulting actions will be informed, credible and effective;

**Recommendation 2.** A permanent process of system-wide data collection and analysis be established, possibly through the County’s new Decision Support System and under the auspices of the Working Group or a permanent successor group, to ensure that any racially or ethnically disparate decisions or practices in Multnomah County’s criminal justice system are identified and remedied;

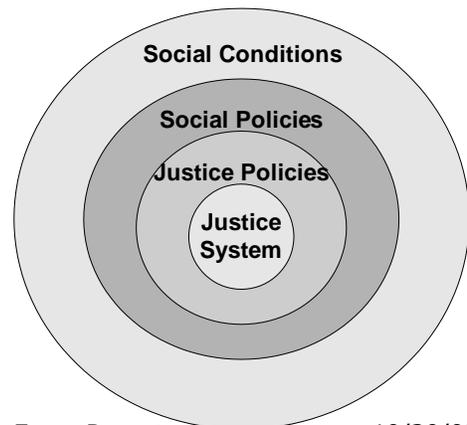
**Recommendation 3.** An interim process be established to continue the efforts of the Working Group, in order to further analyze the relevant data that has been collected thus far, and to investigate more thoroughly the key “decision points” that appear to be causing an increase in over-representation in the system.

### ***The Context for the Working Group’s Deliberations***

The Working Group recognizes that many people believe that much of the social system in the United States, including the justice system, are in fact racially and ethnically biased. For example, issues of disparity in access to health and mental / behavioral health care have recurred both nationally and in Multnomah County. Certainly there are major concerns about equity in the public education system, most recently exemplified by the work of a “Crisis Team” in bringing racial and ethnic disparities in student performance levels to the attention of the Portland Public School System. Such differences may be reflected later in the likelihood of involvement in the justice system. Beyond social services, employment rates and salary levels also show differences by race and ethnicity. Such differences in both income and assets undoubtedly change the nature of the interactions that citizens have with the justice system.

The diagram below represents the impact of the environment in which the criminal justice system operates. The issues noted above, such as employment and economic disparities, health care access, and educational access form the surrounding social conditions and social policies within which justice policy and actions take place.

Justice policy examples at the local level are drug and prostitution free zones and a zero tolerance for domestic violence. At the state level it may be petitions or legislative initiatives such as sentencing guidelines that shape local justice. At the federal level the war on drugs has involved federal agencies in local law enforcement and has funded certain kinds of law enforcement, services or prosecution. Such policies represent reactions to larger community and political concerns such as drug crimes, prostitution, and domestic violence. The impact of changing policy at all levels is reflected in local crime statistics. For example, police initiatives in high drug activity areas will increase the number of drug arrests. Tracking crime data across the system for over-representation of people of color will increase our



understanding of the impact of local and historical crime processes that exist in the community. In addition to justice agencies, a wide variety of private agencies contract with justice agencies for delivery of services. Political and citizen advocacy groups play a role in shaping local policy and programs. All of these are affected by outside socio-cultural, economic, and political forces that influence the County, its communities and its inhabitants.

The justice system, represented by the innermost circle, operates within the other layers that have created multiple forms of disparity across racial and ethnic lines. There are major concerns throughout the country about “inner circle” issues such as the proportion of persons of color in prison settings, adequacy of representation in court processes, access to alternative methods of resolving cases, and transfer of juveniles to adult courts. In the local community the criminal justice system must be responsive to the perceptions of community members as to the fairness of the criminal justice system. The Working Group believes that public perceptions, whether based on accurate information or not, contribute to our community’s shared sense of equity and fairness upon which the credibility and effectiveness of the criminal justice system depends. The Working Group discussed possible perceptions at each decision point, which served to further the Group's interest in pursuing a community dialog.

“Racial profiling,” by which people of color are stopped, searched or arrested in disproportionate numbers, has recently become the focus of media and public attention. The fact that laws banning such practices have been passed across the country, and that local law enforcement agencies, including the Multnomah County Sheriff’s Office, the Portland Police Bureau and the Gresham Police Department, have declared “zero tolerance” for such practices, reflects a recognition that such practices are wrong. Additionally, policies of zero tolerance have emphasized the commitment of the entire justice system to avoid using such biased practices.<sup>e</sup> “Racial profiling” is a “hot issue” because of its visibility in the community. However, the question of whether there is biased decision making, whether conscious or unconscious, needs to be explored at each justice system decision point.

The Working Group discussed other areas where there may be a perception of unfairness in the criminal justice system: pretrial holds (having a person stay in jail from arrest to hearing date), variation in plea offers, representation by a public defender versus a privately retained attorney, and other topics. The Working Group recognized the possibility that minorities may receive unfair sentences or fewer referrals to rehabilitative social programs. The Working Group considered the possibility that sentences and sanctions of offenders on supervision may be more constructive (treatment options, schooling, and employment options) versus more punitive, and that all offenders should be handled equitably in this respect as well.

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<sup>e</sup> The issue of police encounters with citizens has raised perceptions of unfairness across the country. Among the materials later in this report, there are a number of explanations presented for why police stops may occur -- most notably, those arrests mandated by law, and the large number of arrests resulting from citizen complaints and calls for service. Reliable data to confirm or refute that some arrests, stops or other police detentions of minority persons may be racially or ethnically biased are currently unavailable. The reasons for the unavailability of such data are that traffic stops and other encounters between police and citizens are not ordinarily documented in police reports, police officers often do not record the race or ethnicity of suspects in police reports, and they frequently consider inquiries about such matters rude or inconsiderate to the citizen.

The Working Group wanted to review data on a wide range of issues that might make a difference in the outcome of a case as it is processed through the justice system. Unfortunately, satisfactory data do not currently exist for important issues such as police stops, victimization, plea agreements, pretrial detention, and outcomes of cases handled by public versus private attorneys. In some areas such as variations in sentencing conditions, data could be collected laboriously, by pulling and reviewing paper files.

Information on police stops may be collected in the future. The Working Group supports current efforts by the state of Oregon to create a manageable process for collecting and analyzing data concerning police encounters with people of color. The Working Group also plans to utilize the County's innovative Decision Support System to explore areas where analysis was not possible before, and hopes to learn of other new technologies for better record keeping. Improved data and research methods need to be developed to further understand the dynamics and impact of plea offers, pretrial detention, drug crimes, sentencing outcomes, risk assessments in the supervision process, and other justice processes that may affect minority communities.

This report collects data from the Portland Police Bureau, the Gresham Police Department, the Multnomah County District Attorney's Office, the Multnomah County Sheriff's Office, the Department of Community Justice and the Multnomah County Court. All of these agencies contributed time and data for the report.

### **The Working Group's Initial Work and Its Resulting Operating Principles**

The Working Group has been meeting on a monthly basis since June of 1998. During the first six months of meetings, the Working Group engaged in frank and exhaustive discussions regarding:

- (a) The concepts, issues and implications of minority over-representation in criminal justice systems across the country, including an analysis of leading commentary and research on the subject and current literature on best practices to identify and address racial or ethnic disparity and inequity;
- (b) The availability, location and nature of data relevant to demographics (race and ethnicity) throughout Multnomah County and within its criminal justice system; and
- (c) Cost-effective and reliable strategies for collecting and analyzing such data to determine if, and to what extent, race or ethnicity based decision-making and disparity exist in our system.

In the course of this initial work, **the Working Group arrived at the following operating principles** to guide its work:

**Operating Principle 1. An action plan and recommendations must have community input to be credible and effective.** Due to the practical need to reach consensus and produce results on a timely basis, no deliberative body such as this can be large enough to fully reflect the diversity in background or perspective necessary to ensure that its findings and recommendations will be credible or effective. There is no substitute for obtaining input from the community on these important issues. Therefore, **the Working**

**Group or the Council should hold a series of public meetings throughout the County particularly in communities of color, to discuss issues of over-representation and the contents of this and any other report and action plan adopted by the Council.**

**Operating Principle 2. The Working Group and the Council should focus on problems and solutions to unfair over-representation that are within their control.**

The Working Group identified numerous broad social and economic disparities based on race, ethnicity and wealth -- from variations in access to education and health services to blatant racial or ethnic discrimination -- that no doubt contribute to over-representation in the criminal justice system. While the members of the Working Group may deplore such unfair social conditions and practices, they have neither the expertise nor the authority to control them. On the other hand, assessments and recommended actions to reduce unfair conditions or practices within the criminal justice system over which the Council, its members, and participating agencies have control, can truly serve to advance our community's shared values of fairness and equity. The realization that many conditions are beyond the immediate influence of the criminal justice system should not deter us from taking action in those areas where the system has the capacity to act on issues of fairness.

**Operating Principle 3. Both the perception and the reality of inequities in our criminal justice system are important.** Over-representation of minorities in the criminal justice system does not necessarily mean that decisions within that system are discriminatory or unfair. Plausible alternative explanations may exist; for example it may be that the justice system is aggressively responding to concerns for adequate service and "protection" raised by other members from communities of color. Nonetheless, the effective operation of the justice system fundamentally relies upon the general belief that it operates fairly. Significant threats to that belief will undermine the willingness of citizens to respect the law, use the justice system, cooperate with the system and abide by decisions rendered in the justice system.

**Operating Principle 4. There are no immediate, short-term solutions to the public perceptions and realities of over-representation.** The Working Group struggled with the development of effective approaches to unfair over-representation. It became increasingly clear that there would be no immediate short-term solutions to the perceptions of inequity arising from over-representation, or to the problem of determining if unfair treatment or decisions underlie over-representation in Multnomah County. **Instead, these problems will require continual vigilance through a permanent monitoring process** in which:

- (a) Relevant data regarding key decision points in the criminal justice system are collected and analyzed on a regular basis;
- (b) Those decision points that appear to be increasing over-representation in the system are identified and further scrutinized; and

- (c) When unfair conditions or practices are identified at any of these decision points, strategies are designed to remedy such unfairness.<sup>f</sup>

**Operating Principle 5. The concept of “over-representation” must be clearly defined and understood.** As used in research on the subject and in literature on best practices across the country, “*over-representation*” has come to mean a greater percentage of a racial or ethnic group within a community’s criminal justice population than that group’s percentage within the community’s general population. Variation between these percentages can mean, but does not necessarily mean that decisions involving the administration of criminal justice are unfairly race-based or ethnically discriminatory.

The Working Group concluded that substantial discrepancy between a group’s proportion of the criminal justice population and that group’s proportion of the general population creates a presumption that further inquiry and analysis are needed. Any major variation should require either a satisfactory explanation of why it is not the result of inequitable decisions or practices, or the identification and modification of inequitable decisions or practices.

**Operating Principle 6. Prevailing public policies and resource allocation directly affect the extent of minority over-representation.** A variety of public policies, some promulgated by local governments, most by state legislatures and the U.S. Congress, affect the level of minority over-representation in local criminal justice systems, and add fuel to perceptions of unfairness. From federal immigration laws, to state and federal laws governing the kinds and amounts of drugs to criminalize, to law enforcement responses to the public’s concern over visible street crime, our nation’s public policies often influence, however unwittingly, the racial and ethnic makeup of our criminal justice populations. In considering the impact of such policies, the Working Group believes that two points relating to over-representation still need to be kept in mind:

- (1) However commendable, aggressive application of the laws by each justice system agency in minority communities increases over-representation in arrests and subsequently the rest of the criminal justice system. This complicates the task of sorting out and identifying unfair and inequitable causes of over-representation. In this report the Working Group is recommending to the Council a permanent process to monitor changes in over-representation.

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<sup>f</sup> This is the process the Working Group has recommended to the Council above. Fortunately, the Working Group and the Council have a model for this process in the groundbreaking work of one of the Working Group’s members, Professor Bill Feyerherm, in collaboration with Multnomah County’s Department of Community Justice. Under the auspices of the Annie E. Casey Foundation Detention Reform Initiative, they collected and analyzed data relating to the over-representation of minority youth in the County’s juvenile detention facility. After confirming that Department decisions and practices governing detention were contributing to over-representation, they designed interventions and protocols that substantially reduced the problem. The experience of this project confirmed that continual vigilance is necessary to ensure that a problem of over-representation caused by criminal justice decisions or practices does not re-emerge at the original source, or somewhere else in the system.

(2) To minimize public perceptions of unfairness while pursuing such aggressive policies, the current commitment to principles of community justice by all local governments and public safety agencies in Multnomah County must continue. This commitment is exemplified by aggressive minority recruitment within justice agencies, community policing, neighborhood district attorney offices, community courts and increased access to treatment and social services within minority communities. Otherwise, too many citizens may see the full range of justice professionals (i.e. judges, defenders and prosecutors, as well as police officers, sheriff's deputies and probation officers) as an "occupying force" in our County's communities of color. As a consequence, our criminal justice system may lose the credibility essential for its effectiveness.

**Operating Principle 7. Data relevant to over-representation are not readily available or reliable.** Most of the Working Group's time and energy has been devoted to identifying, collecting and interpreting data relevant to over-representation. Cooperating justice agencies -- most notably, the District Attorney's Office, the Sheriff's Office, the Portland Police Bureau, the County Court, the Gresham Police Department and the Community Justice Department -- have expended enormous amounts of staff time and expertise to produce this data. The Working Group discovered that variations in the coding, collection and presentation of this data from one agency to another made analysis extremely difficult. The Working Group concluded that **the establishment of a comprehensive data collection process that includes all local justice agencies, such as the Decision Support System currently under development, is needed to enable Multnomah County to monitor minority over-representation in the criminal justice system on an effective and ongoing basis.** This is an important first step in understanding, creating a dialog about and addressing over-representation.

### **The First Steps in Developing This Report**

By the end of 1998, following its initial work and agreement on a set of operating principles, the Working Group developed a "Proposal for an Action Plan," which outlined the first steps that needed to be accomplished.<sup>9</sup> As described below, three of the four steps have been accomplished. "Step 3" -- the collection and analysis of data represents an ongoing task requiring the establishment of a permanent process for collecting and analyzing relevant data under the auspices of the Public Safety Coordinating Council.

This section of the report describes an action plan process, methodology, and results.

**Step 1. Complete an assessment of the demographics relating to race and ethnicity in Multnomah County.** The credibility of this analysis of minority over-representation in the local criminal justice system depends upon an accurate count of all resident population groups in Multnomah County. Fortunately, Multnomah County has relatively

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<sup>9</sup> A copy of the Working Group's "Proposal for an Action Plan," in the form of a memorandum dated November 25, 1998, is included in the Appendix.

current data through the 1998 American Community Survey. This information provides the necessary baseline for determining the extent of over-representation of each minority population in the criminal justice system. However, difficulties still remain in gathering ethnic data, data for under-counted populations, and residential versus daytime populations.

**Step 2. Identify those key decision points in the criminal justice system with the greatest potential to increase over-representation.** The analysis of 1998 data regarding the justice system resulted in identification of the following key decision points:

- (a) Arrest - Action of the law enforcement officer at the point of arrest;
- (b) Prosecution - Action of the prosecutor to charge a person with a specific crime;
- (c) Sentencing - Sentencing of a convicted defendant by a judge, to incarceration or other sanctions and conditions;
- (d) Supervision - Sanctioning of an offender by a parole or probation officer for violation of conditions of supervision.

**Step 3. Collect and analyze data regarding outcomes for each racial and ethnic group at each of these key decision points.** After the Working Group selected four key decision points as priorities for assessment, the next step was to collect data from agencies responsible for making decisions at each of those points. That data was analyzed to determine outcomes at each decision point for the members of those racial / ethnic groups for which data is collected. Significant variations between a minority group's percentage of the general population and its percentage of populations at key decision points raises a presumption that further inquiry is needed. Further inquiry is particularly warranted where some populations may experience more excessive outcomes in comparison to other races/ ethnic groups where especially there is a stronger likelihood of loss of liberty. The Working Group examined data at selected decision points in more detail, and gathered further information from the relevant agencies, to explore if certain variations appeared to be justifiable or the result of bias or discrimination.

The Working Group and cooperating agencies have devoted most of their time and energy to collect and analyze data regarding outcomes at key decision points. Due to the complexity of this task and the unavailability of reliable, comparable data, the task has only just begun. Because demographics, criminal laws and enforcement policies and practices change regularly, a monitoring process must become a permanent function of the Public Safety Coordinating Council.

**Step 4. Obtain outside technical assistance to support the Working Group's research efforts.** It became clear to the Working Group that the task of collecting and analyzing data relevant to minority over-representation in Multnomah County's criminal justice system was too large and complex for individual members and limited staff resources to undertake; further assistance was clearly necessary.

At nearly the same time the Working Group was established, the U.S. Department of Justice selected Portland as one of five cities across the country to receive federal support in implementing community-based approaches to law enforcement and crime prevention through a new partnership between local authorities and U.S. Attorney's Offices. The initiative is called Strategic Approaches to Community Safety, or "STACS," and has provided financial support for action-oriented research in Portland. Because the Public Safety Coordinating Council had already begun implementing an aggressive plan to reduce youth gun violence in Portland, STACS adopted that mission and became a Working Group of the Council.

As already discussed, justice policies can have a direct impact on the extent of minority over-representation in criminal justice systems. Both the Council and STACS' working groups recognized the potential for such impact as a result of efforts to combat youth gun violence in Portland. The use of guns is frequently associated with minority gang activity and the distribution of drugs by some of those gangs. The incidence of gunshot reports and shootings is higher in communities of color in Portland. The STACS' project actively encourages police, prosecutors, and correctional officials to aggressively enforce state and federal gun laws. Such action may increase the number of minorities in Multnomah County's criminal justice system. For this reason, the Council and STACS agreed that federal research support must be provided to this Working Group to ensure fair and equitable treatment and the absence of biased or discriminatory practices for persons of color suspected or accused of a crime in Multnomah County. Federal support was used to assist in the data analysis effort described in Step 3 of this Plan.