THE DISPROPORTIONATE INCARCERATION OF BLACK AND HISPANIC YOUTH IN NEW JERSEY

REPORT OF THE GOVERNOR'S JUVENILE JUSTICE AND DELINQUENCY PREVENTION ADVISORY COMMITTEE AND ITS AD HOC SUBCOMMITTEE ON MINORITY ISSUES

MARCH 1, 1990

STATE LAW ENFORCEMENT PLANNING AGENCY
CN 083
TRENTON, NEW JERSEY 08625
609-984-2090

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State of New Jersey

GOVERNOR'S ADVISORY COMMITTEE ON
JUVENILE JUSTICE & DELINQUENCY PREVENTION
STATE LAW ENFORCEMENT PLANNING AGENCY

CN 083
TRENTON, NEW JERSEY 08625
TELEPHONE (609) 984-2090

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March 1, 1990

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Speaker, New Jersey General Assembly
State House Annex
Trenton, New Jersey 08625

Members of the Governing Board
State Law Enforcement Planning Agency

Gentlemen:

The Juvenile Justice and Delinquency Prevention (JJDP) Advisory Committee is pleased to present you with a copy of its report on the disproportionate incarceration of minority youth.

The JJDP Advisory Committee has been greatly concerned about the large number of black and Hispanic youth that are in New Jersey's juvenile justice system, state-run training schools, residential treatment centers and correctional day programs. Funds available under the JJDP Act of 1974, as amended, provide some programs and services which are focused on strengthening the family unit and preventing the out-of-home placement of youth, particularly inner-city youth. However, the limited amount of funds available through the JJDP Act ($1.2 million for FFY '89) is not sufficient to address all the needs of the State.

The Committee realized that if the issue of disproportionate incarceration of blacks and Hispanics were to be addressed, it would require not just the efforts of the JJDP Advisory Committee and its funds, but an emphasis and focus by all branches of State government. The issue must be addressed not only by funding but also by policies and procedures which will make a difference. The Committee also realized that in order to prevent the involvement of minorities in the juvenile justice system, other systems (education, health, social services, for example) must also look at their policies and programs and how they impact on minority youth and their families.

When the JJDP Act was reauthorized in 1988, it was amended to require States and Territories participating in the Act to determine whether or not there was disproportionate incarceration of minority youth in secure confinement and, if so, to establish a strategy to address the problem. In the completion of the first phase of this initiative, we determined that minority youth are three times more likely to be placed in secure confinement than white youth. As a result of the initial information provided to the federal Office of Juvenile Justice and Delinquency Prevention, we are now required to obtain additional statistical information on the processing of minority youth through the juvenile justice system and to develop a strategy to address the problems identified.

Approximately two years ago, the JJDP Advisory Committee established an Ad Hoc Subcommittee on Minorities Issues to start to address this problem. The results of that subcommittee's efforts are attached. The report includes some very valuable information as well as a number of recommendations for starting to reduce the number of minority youth confined to secure confinement. The report includes the following general recommendations:

PREVENTION

Primary prevention and early intervention services need to be developed by the various systems of care to address the problems that minority families face, thereby decreasing the odds for the need for more intensive crisis oriented services later.

CULTURAL SENSITIVITY/COMPETENCIES/TRAINING

Programs, services, professionals and staff must be trained to be knowledgable and sensitive to ethnic and cultural issues that impact on the juvenile, the family and the community so that they can provide the relevant assistance, appropriate decision making and treatment that a case may require.

LEGISLATION/JUVENILE CODE

Laws which address the inequities experienced by minority youth and their families in the juvenile justice, economic, social and educational systems in New Jersey need to be enforced.

EVALUATION AND ACCOUNTABILITY

All governmental funding should require that public and private agencies meet their contractual obligation. Funding for programs that are not effective should be redirected to other efforts.

EMPLOYMENT/VOCATIONAL TRAINING

Minorities have to be better prepared with competitive skills than they are now if they are to take advantage of the job opportunities that will be available to them.

FUNDING

The Legislature should make a tangible investment in youth by providing resources to address the needs of minority youth and their families in order to prevent further involvement in the juvenile justice or adult correctional system.

The recommendation section of the report (pp. 16-22) includes specific action oriented steps to be taken to implement the above recommendations.

We hope you will take the time to review the report in detail. We think you will find it to be a valuable resource in improving services to all at-risk youth as well as reducing the secure confinement of minority youth.

The JJDP Advisory Committee stands ready to assist you in implementing the recommendations.

Sincerely,

Lillian G. Hall, Chair

THE DISPROPORTIONATE INCARCERATION OF BLACK AND HISPANIC YOUTH IN NEW JERSEY

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INTRODUCTION

The number and percentage of black and Hispanic youth that are in New Jersey's juvenile justice system and who are sent to state-run training schools, residential group centers and day programs has escalated over the years. In 1984, the three institutions operated by the Department of Corrections, Division of Juvenile Services, had a total population of 664 youth. The racial make-up included 153 white (23%), 412 black (62%) and 99 Hispanic (15%).

In 1986 the three institutions had a total population of 745 youths. The racial make-up included 131 white (17%), 487 black (65%), 123 Hispanic (17%) and 4 other (1%).[1] The overrepresentation of large minority populations in these facilities obscures the fact that in 1986 there were 5,961 (48%) white youth adjudicated delinquent compared to 5,198 (42%) black and 1,141 (9%) Hispanic.[2]

What makes this phenomenon most disturbing is the fact that in all categories of crimes from the most serious first degree to disorderly persons, black and Hispanic youths have two to three times higher incarceration rates than white youths. In 1986, 98 white juveniles were adjudicated and sentenced for first degree crimes, 10 (10%) of whom were incarcerated; 410 black juveniles were adjudicated and 127 (31%) incarcerated; and 71 Hispanics of which 22 (31%) were incarcerated. In third degree crimes, only 5.7% white youths were incarcerated compared to 12.2% black and 14.9% Hispanic.[3]

In 1987 the Governor's Juvenile Justice and Delinquency Prevention (JJDP) Advisory Committee established an Ad Hoc Subcommittee on Minority Issues to address its concerns regarding the disproportionate incarceration of minority youth. The subcommittee is composed of members of the JJDP Advisory Committee as well as representatives of state agencies, committees and commissions, advocacy groups and private citizens.

The mission of the subcommittee is to promote awareness of problems that are affecting minority youth/adolescents involved with or at risk of involvement with the juvenile justice system in New Jersey and to actively support resolutions designed to address the problems affecting these populations. The subcommittee adopted two major goals: 1) to reduce the number of black and Hispanic youths placed in the juvenile justice system and 2) to create community awareness of the problems and issues minority youth and foster community involvement in actively addressing the problem.

The subcommittee has been working for over a year reviewing existing reports, looking at juvenile justice legislation, examining statistics and debating issues. The plight of children in New Jersey, particularly issues and problems of minorities in the juvenile justice system, has been examined in several reports by various State groups. The Subcommittee felt that it was important to summarize those specific issues related

to minority children and families in one document if the problems of minorities were to be emphasized and addressed. This report will serve as a guide for the JJDP Advisory Committee as well as decision-makers in this State in starting to develop solutions which can decrease the number of minority youths who are involved in delinquent activity and are subsequently incarcerated.

The juvenile justice system is a reflection of the larger society which defines and supports it. The concerns of black and Hispanic children and families must be addressed by agencies and organizations at all levels of government. If we do not address the overrepresentation of blacks and Hispanics in the juvenile justice system and the impact on their families, New Jersey and the rest of the country can expect more and more minority youths to come into the juvenile justice system. History demonstrates that problems ignored in the black and Hispanic communities eventually spread to the population as a whole.

1. Department of Corrections, Juvenile Secure Facility Population, 1978-1989
2. Juvenile Delinquency Commission, *Juvenile Justice—Toward Completing the Unfinished Agenda,* August 1988.
3. Ibid.

PROBLEM STATEMENT

Black and Hispanic youth are more often sentenced to publicly operated institutions than white youth, who are sentenced to private institutions or diverted away from the system for the same types of offenses. Blacks and Hispanics experience the most intrusive involvement in the local and state juvenile justice systems. From the smallest to the largest detention facility in the State, one finds a majority of black and Hispanic offenders with a wide range of charges.

According to New Jersey Department of Corrections, Division of Juvenile Services 1988 statistics, 86% of the juveniles in the state's juvenile correctional facilities are minorities. Further, in 1986 (the last year for which race data is available), of the juveniles admitted to county juvenile detention facilities 70% were minorities.

The problems of New Jersey's black and Hispanic children do not start when they enter the juvenile correctional system. Youth are at risk of becoming involved in the juvenile justice system because of the failure of the various systems to address their special needs earlier.

Many families, through no fault of their own, lack sufficient income as well as job opportunities necessary to meet their basic survival needs. These same families are often poor, at times homeless, and forced to make drastic choices among basic necessities. The experiences of poor families living in our inner cities is one of struggle and survival. Substandard housing, minimal resources, the fear of crime and exposure to the heavy drug culture in the inner city are all part of the growing experience that urban children must deal with.

The impact on these children is devastating and severe. The extent of substance abuse, delinquency, teen pregnancy, school dropout, unemployment and now drug trafficking are direct effects of impoverishment. To survive, these children need positive supportive social, educational and/or economic public systems.

Some indicators of the plight of New Jersey's black and Hispanic children are:

- A look at N.J. Department of Education public school dropout data indicates that while the number of white youth dropping out of school is declining, the number of minorities dropping out is not. For the 1980-81 school year, 12,258 whites, 5,328 blacks and 2,683 Hispanics dropped out of school. By the 1987-88 school year, the number of whites dropping out had declined to 8,976. The number of blacks increased to 6,134 and the number of Hispanics to 3,371.

- According to Department of Labor data, in 1988, the unemployment rate for whites, 16 to 19 years of age was 8.2% while the unemployment rate for blacks, 16 to 19 years of age was 21.7%. (No breakdown of Hispanics in this age group was available.)

- Division of Youth and Family Services data indicates that of the 5,896 children in foster care in 1988, 4,214 (71.5%) were black and Hispanic children.

All children have a multitude of difficult decisions to make relative to social, emotional, intellectual, educational, psychological and vocational problems. When these problems are not identified and addressed early, they may often lead to delinquency and court involvement. When delinquency occurs and juvenile justice system involvement is required, statistics seem to indicate that a two-tiered system emerges which suggests that cases involving minority youth are dealt with more harshly than those involving white youth. White youth are more likely to be sent to less restrictive and private institutions and/or locally based services. Black and Hispanic youth are more likely to be found in publicly operated correctional facilities from county detention to the state run training schools and other programs designed for delinquents.

Much research has focused on the incarceration of Black youth. National studies have also demonstrated high incarceration rates of Hispanic youth, Native Americans, Asian/Pacific Islanders and Japanese Americans. The issue of differential juvenile justice rates for blacks and Hispanics is a growing problem in American society.

While far too many children of all races end up in out-of-home placements, data clearly indicates that placements geared to therapeutic services (group homes and residential treatment centers) are predominantly populated by white children. Data taken from the 1988 Division of Youth and Family Services (DYFS) Demographic Report indicates that blacks comprise 58.4% of DYFS out-of-home placements, whites 28.7% and Hispanics 8.9%. Conversely, blacks comprise only 44.7% of group home care, whites 42.9% and Hispanics 8.3%. Blacks represented 34.6% of juveniles placed in residential care, whites 53.2% and Hispanics 9.2%.

Black and Hispanic children have historically been over-represented in secure state run facilities. According to the 1983 Uniform Crime Report for New Jersey, there were 99,179 juveniles arrested, of which 31,685 were black and 8,196 were Hispanic. Minorities represented approximately 40% of all juvenile arrests. However, according to the Department of Corrections, in 1983 74% of the juveniles in juvenile correctional facilities were black and Hispanic.

Although juvenile arrests have declined slightly over the past few years, from 96,780 in 1984 to 94,862 in 1988, the number of juveniles in juvenile correctional facilities has increased from 664 juveniles in 1984 to 726 in 1988. The proportion of minority juveniles incarcerated, however, has risen from 77% in 1984 to 86% in 1988 and 85% in 1989.

While there are some State and community programs which focus on helping minority youth, an urgent need exists for many more public and private efforts in addition to the few in existence, particularly in the urban areas. The large number of minority youth over-represented in the extreme end of the system indicates that neither the public nor the private sector is adequately dealing with the unique problems faced by non-mainstream youth and their families. This suggests that there is

a failure to effectively address their special needs early in an effort to prevent their involvement in the juvenile justice system. The issues surrounding the problems are complex and deeply rooted in the structure of the society as a whole. A coordinated system needs to exist not only to react to crisis situations but to proactively address the early needs of black and Hispanic children.

There is a need to explore more community-based alternatives at the local level to reach youth at risk and less serious delinquents in an effort to prevent penetration deeper into the juvenile justice system, particularly the penetration of black and Hispanic youth. These alternatives should provide not only therapeutic services but recreational, vocational and educational opportunities. Services should also reflect an understanding and appreciation of the cultural and ethnic characteristics of the minority population.

Many juvenile institutions at both the State and local level are experiencing serious overcrowding problems. New Jersey must vigorously review the utilization of these institutions. While there is a need for secure placements for the serious, violent juvenile offender, all delinquent youth may not need to be placed in large restrictive institutions.

It is time to look at alternatives. In New Jersey, the training school population is overwhelmingly black and Hispanic. It is time to explore the use of small secure facilities for juveniles who commit violent offenses and to look at alternatives to incarceration for other juvenile offenders. Educational programs, especially those that are vocationally oriented, should be key program components of all types of institutions. Otherwise, institutions become revolving doors, i.e., the recidivism rate escalates. Smaller units with the provision of focused treatment programs can result in more effective results for less dollars.

Will we continue to ignore the area of prevention and the opportunities that it holds for youth at risk? Or will we provide the incentives and opportunities for black and Hispanic youth so that we can reduce their contact with the juvenile justice system?

HISTORICAL PERSPECTIVE

During the last 20 years, New Jersey's juvenile justice system has undergone major changes. In 1973, the Juvenile Code was signed into law (P.L. 1973 c.306). It provided for deinstitutionalization of status/non-offenders, redefined classification of juveniles that were to come into contact with the law, defined delinquency, created a classification of JINS (Juveniles in Need of Supervision) and gave exclusive jurisdiction to Juvenile and Domestic Relations Courts in each county to hear most juvenile offenses.

On July 23, 1982, the New Jersey Code of Juvenile Justice was signed into law (P.L. 1982 c.77-81) and went into effect on December 31, 1983. This law established the Family Court, substituted juvenile family crisis for juveniles in need of supervision jurisdiction, made punishment an integral part of juvenile delinquency jurisdiction, created jurisdiction over parents, allowed up to 60 days commitment to county juvenile detention facilities, mandated creation of Family Crisis Intervention Units in each county and created the Juvenile Delinquency Disposition Commission.

In addition to the legislative changes at the state level relative to juvenile justice, the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 was passed by Congress to provide a coordinated approach to the problems of juvenile delinquency. The Act, when passed, mandated states to deinstitutionalize status offenders and separate juveniles from adults in correctional facilities in order to receive funding. When the Act was reauthorized in 1980, it was amended to also require states to remove juveniles from county jails and lockups in order to continue receiving funding. The State Law Enforcement Planning Agency (SLEPA), which was created by Executive Order in 1968 and affirmed by legislation in 1976 to provide comprehensive criminal/juvenile justice planning and to administer programs funded under the United States Department of Justice, was given responsibility for administering the JJDP Act in New Jersey.

While New Jersey was in compliance with the deinstitutionalization mandate of the JJDP Act, it did have to work diligently to achieve separation of juveniles from adults in correctional facilities. When New Jersey began participation in the JJDP Act, approximately 450 juveniles were being mixed with adult inmates, primarily in the youth correctional complex. With the JJDP Act funds, several alternatives to secure correctional facilities were established. In addition, through administrative and policy decisions, sight and sound separation was achieved for youth who had to remain in secure facilities.

As a part of the State's separation effort, the Division of Juvenile Services was created in the New Jersey Department of Corrections in 1978. The major mission of the Division is to provide care, treatment and custody for youth committed by the Family Courts throughout the state. At the time it was created, the Division had two institutions and seven residential group centers. Since that time, the Division has expanded. As of June 1989, it oversees three major institutions, 25 residential centers

(including two for female offenders) and 21-day programs. The Division has expanded its mission to create programs to divert young offenders from lifelong criminal and institutional careers through cooperative ventures with local, county and private providers emphasizing less-restrictive programs for probationers and early intervention projects.

In addition to the legislative changes over the years, numerous commissions and committees have been created in New Jersey to look at the plight of children, including those in the juvenile justice system or at risk of involvement. These groups and their functions are described in Attachment A.

It is obvious that a great deal of change has taken place with juvenile justice in New Jersey over the past two decades. Numerous legislative activities have occurred and several commissions and committees have been created to address the specific concerns of our children and families who are at risk of or already involved in the juvenile justice system. Reports have been written to address the plight of our children. Recommendations have been developed. All of these reports have given some attention to the problems of blacks and Hispanics. The questions remain as to why these concerns have not been addressed and why have the needs of minority children and families not been given any consideration?

MINORITIES IN NEW JERSEY: HIGHLIGHTS OF EXISTING REPORTS

Gubernatorially appointed and legislatively established committees as well as a variety of agencies have studied the overall problems of youth and have developed reports with substantive recommendations. All of the reports have pointed out the plight of New Jersey's youth with attention to the special problems and needs of blacks and Hispanics. This section will review some of the particulars of existing reports which focus on the needs of minorities.

Linking Policy With Need, the 1982 report of the **New Jersey Commission on Children's Services,** provided an inventory of state-administered services for children and conducted a review of the services delivery system. In obtaining information for the report, the Commission identified serious inefficiencies and inequities in the provision of services and found many critical unmet needs.

In reference to the needs of minorities, **Linking Policy With Need** indicates that there are clear inequalities in the provision of public educational and human services to New Jersey's black and Hispanic children. For example:

- Minority children constitute a major proportion of the children who are placed out of their homes into the care of public agencies and they are far more likely than white children to be placed in the most restrictive institutional settings.[1]
- White children represented 63% of all youth arrests for serious crimes, yet black and Hispanic children make up the overwhelming majority of the populations in secure detention centers and in the state's correctional facilities.[1]
- Grossly disproportionate numbers of minority children are suspended from public schools.[1] Black children, although they represent only 18% of the statewide population, constituted 29% of all students suspended.[2]
- Black children are far more likely than white children to receive the most stigmatizing special-education classification.[1]
- Minority families have borne most of the increase in the rate of poverty—for black families, the rate of poverty has jumped to 21% and for Hispanic families, the rate has climbed to 29%. Almost one-third of all black and Hispanic children are growing up in poverty. Together, these youngsters represent more than one-half of all New Jersey's impoverished children.[3]
- The lack of supervised recreational programs and other community activities was of particular concern to members of the black and Hispanic communities. They reported that youngsters are being left to loiter on street corners and are being given a message that the community does not care about them.[4]

- In many instances the services provided by the Division of Youth and Family Services are not suitable for black and Hispanic families, who comprised the majority of the families under DYFS supervision. Information gathered by the Commission indicated that staff are not always sensitive to the needs of these families, cognizant of the cultural nuances that affect child-rearing practices or able to establish a working rapport with the families.[5]
- Unemployment has become a particularly acute problem for urban minority youth, for whom the unemployment rate ranges as high as 60% in some parts of the state. Factors responsible for this may include racial discrimination, education and training inadequacies, the business cycle, location in poverty areas and increased supply of white youth and adult women in competition for unskilled, entry-level jobs.[6]
- Over the last 20 years, the mortality of non-white infants has been consistently twice that experienced by white infants in the state.[7]

The 1985 **Action Plan for Children,** issued by the **Governor's Committee on Children's Services Planning** (the successor to the Commission on Children's Services), used the Commission's report as a starting point for its work. Specific issues identified as priorities were broad systems problems which affect the planning and coordination of services, service gaps and service delivery problems in specific service areas. The Action Plan also addressed the problems of black and Hispanic children and included the following information:

- Minority children are more likely to be suspended: they represent 27% of the total enrollment but 37% of the suspensions.[8]
- Appropriate services are not consistently provided for black and Hispanic families.[9]
- About one out of every three minority children lives in poverty in New Jersey.[10]
- Although minority students represent only 30% of the state's student enrollment, they represent over 41% of all dropouts.[11]
- During the first quarter of 1984, the unemployment rate for youth ages 16 to 19 was over 20%. The picture is even bleaker for minority youth, particularly in the urban areas where the youth unemployment rate ranges as high as 60%.[12]
- It is significant to note that the vast majority of the children who ultimately are sent to locked detention centers and correctional facilities are minority children from the state's poorest communities with the least resources for education and community support services.[13]

It is obvious that between the 1982 report and the 1985 report, the state of New Jersey's black and Hispanic children did not improve to any great extent and in many instances worsened. Both of these reports dealt with the broad range of problems facing our children although each gave attention to youth at risk of involvement and/*or involved* in the juvenile justice system. The reports emphasized some of the

conditions which our children must deal with, conditions which it is believed lead to delinquent activity.

The report, **Past Due,** published by the **Governor's Committee on Children's Services Planning** in 1987 specifically examined the current system of delivering mental health services to emotionally disturbed children and their families. The report indicates that:

- Blacks and Hispanics do not receive equal access to services. Black and Hispanic children make up 80% of the children in State Training Schools and are far more likely to be in the most restrictive settings. Community services in black and Hispanic neighborhoods are frequently under-funded and too few in number to meet the needs of the community served.[14]
- There is considerable evidence that race, culture and social class influence how children are served by the human services system. At the crudest level this means that two children who exhibit the same behavior end up in different systems. The majority, advantaged child is served by mental health agencies. The minority, disadvantaged child is committed to the Department of Corrections, Division of Juvenile Services.[15]

The reports issued by the **Juvenile Delinquency Commission** (JDC) (formerly the Juvenile Delinquency Disposition Commission) deal specifically with youth involved with the Family Court. The JDC's first report, **The Impact of the New Jersey Code of Juvenile Justice,** issued in 1986 was developed by examining a variety of related issues: How is the new Code working? Are various provisions meshing? Are its goals being realized? Are there unanticipated consequences? Is the system equitable? Do we have the dispositional options we need? Are we organized properly? What incentives are needed? Where do we go next? The question that related most to the topic of this report is the question relative to equity in the system.

The primary problem faced by the JDC in preparing its first report was that, overall, the statistical information required was not available. This led the JDC to stress the implementation of a unit case information system. The report contains information based on the first six months of Unit Case data. However, there was still difficulty encountered in capturing race information. Information on race was missing from initial Unit Case data for about 50% of the juveniles which made it difficult to draw any valid conclusions about racial differences.

By the time the JDC issued its 1988 report, **Juvenile Justice—Toward Completing the Unfinished Agenda,** better statistical information was available. The report indicates the following based on 1986 data:

- Black youths, who constitute approximately 20% of the youth population account for nearly one-half (49%) of juvenile arrests or index offenses and nearly two-thirds (66%) of arrests for violent index offenses.[16]

- Race was not recorded for 10% of the juveniles docketed. However, in all cases where it was, 52% of the juveniles docketed were white, 38% black and 9% Hispanic.[17]
- Race was not recorded for 9% of the juveniles who were diverted but where race was known, 58% were white, 34% black and 8% were Hispanic.[18]
- Race was not recorded in 23% of the cases waived to adult court, but where it was indicated, 57% of the juveniles were black, 24% were Hispanic and 19% were white.[19]
- In 1986, judges sentenced 14,452 juveniles. Of those sentenced juveniles for whom race was recorded (86%), 48% were white, 42% were black and 9% were Hispanic.[20]
- Although nearly 7 out of every 10 incarcerated juveniles are black, only 36% of all juveniles arrested in 1986 were black; only 43% (black 35%, Hispanic 8%) of the juveniles docketed in the Family Courts on new complaints in 1986 were minorities. Only 44% of all juveniles sentenced in 1986 were black or Hispanic.[21]

In the report, the JDC had a section which focused on the incarceration of minority youth. That section of the report included the following:

- One of every two juveniles arrested in 1986 for an index offense was black, as were nearly seven out of every ten juveniles arrested for a violent index offense.[21]
- Seventy-one percent of all juveniles sentenced for first and second degree offenses were minorities.[22]
- Controlling for the seriousness of the offenses for which juveniles are sentenced, black and Hispanics juveniles are still more likely to be committed than are white juveniles. This holds true within each degree category.[23]
- Incarcerated minority juveniles do not, on the whole, average greater numbers of prior adjudications for delinquency than incarcerated white juveniles.[24]
- At least a partial explanation for the apparent impact of race on probability of incarceration comes from the one finding of a statistically significant difference between incarcerated white, black and Hispanic juveniles—family make-up. While only 6% of the white juveniles came from single parent families, 35% of the black juveniles and 29% of the Hispanic juveniles did.[25]

This section of the report states that:

"We conclude from the above analysis that the disproportionate incarceration of minority youth cannot be adequately explained by relevant legal factors (i.e., differences in prior adjudication and seriousness of offenses). Other factors, generally, fail to explain the differences as well. The only exception to these findings is

the apparent effect that family make-up has on judicial decisions. Our data support a view that when a question of family stability exists the likelihood of incarceration may be greater. The negative impact on minorities, as a result, may be greater."[26]

In dealing with the question of equitable responses to delinquency the JDC report concludes that if decisions to incarcerate juveniles are strongly influenced by perceived levels of parental involvement and supervision or by whether or not juveniles can afford, or have insurance to cover, the costs of an alternative residential placement, minorities will be negatively impacted. The state's reliance on local initiatives for the development of dispositional options has resulted in a situation where areas with the worst delinquency problems and the highest concentrations of minority youth often have the fewest "real" options.

In addition to the above findings, all of the reports published have included numerous recommendations for improving services to our children, including blacks and Hispanics. Those recommendations should be reviewed to determine the status of implementation.

1. Commission on Children's Services, *Linking Policy With Need,* 1982, p. 6
2. Ibid, p. 13.
3. Ibid, p. 33.
4. Ibid, p. 93.
5. Ibid, p. 97.
6. Ibid, p. 100.
7. Ibid, p. 101.

8. Governor's Committee on Children's Services Planning, *Action Plan for Children,* 1985, p. 8.
9. Ibid, p. 12.
10. Ibid, p. 35.
11. Ibid, p. 37.
12. Ibid, p. 38.
13. Ibid, p. 39.
14. Governor's Committee on Children's Services Planning, *Past Due: Final Report of the Mental Health Forum,* 1987, p. 1.
15. Ibid, p. 7.
16. Juvenile Delinquency Disposition Commission, *Juvenile Justice—Toward Completing the Unfinished Agenda,* 1988, p. 11.
17. Ibid, p. 23.
18. Ibid, p. 27.
19. Ibid, p. 31.
20. Ibid, p. 44.
21. Ibid, p. 51.
22. Ibid, p. 52.
23. Ibid, p. 53.
24. Ibid, p. 54.
25. Ibid, pp. 54-55.
26. Ibid, p. 55.

CONCLUSION

There is no greater concentration of black and Hispanic males 14 to 18 years of age in the State of New Jersey as there is under the care of the Department of Corrections' Division of Juvenile Services. The matter of disproportionately high rates of incarceration of minority youth is extremely critical for the minority community specifically and to the larger community in general. It will become even greater if the existing trends continue to escalate.

The problems and difficulties facing minority children are certainly not limited to the disproportionately high numbers involved in the juvenile justice system. Moreover, what is evident in the correctional system is only a symptom—the tip of the iceberg. There is concern for differential treatment at all stages of the social services and juvenile justice systems. However, at no point in the system is the issue so dramatically illustrated than at the point of incarceration.

Increased emphasis should be placed on the development of prevention and early intervention programs and services to maintain children in their homes. A comprehensive prevention effort is absolutely essential. Youth at risk of becoming involved in the juvenile justice system must be reached early and given opportunities and support in becoming productive members of society. There is a need to review the allocation of resources in order to expand the number of prevention efforts and community-based enrichment programs.

The current system of crisis intervention fails to adequately address the needs of certain population groups in our State—particularly the needs of black and Hispanic children and families. The current system, which seems to be responsive to crisis situations only, perpetuates the needs for more extensive and expensive services. Special needs of minorities continue to be unmet.

Some children are passed from agency to agency without ever getting the help they need. Agencies must take responsibility for guiding children and their families through the maze of services that do exist and for following up to see that their needs are being met. All service providers should gain as much knowledge as possible about their client population in order to lessen barriers and serve them more appropriately.

Agencies should be encouraged to hire staff representative of their client populations. These staff can serve as role models for their clients. In addition to having staff that is racially and ethnically representative of the children and families with which they come into contact, there is a crucial need for education, information and resources in order to increase the awareness of the problems and needs of black and Hispanic children for all decision makers and service providers.

Policy makers and communities as a whole must continue to focus on the disproportionate numbers of blacks and Hispanics in the social services and juvenile justice systems. There is a need to focus on providing support for children by providing functional skills which would facilitate academic success and job opportunities. There is a need to focus on support for parents so that they can help make a difference in the lives of their children.

Many of the kids that find themselves involved in the juvenile justice system are there because so much has been lacking in their lives. They may not have had enough family support, educational skills to stay in school, vocational skills to get a decent job or healthy recreational activities. They may not have had enough money to obtain professional services, a good lawyer, psychiatric care or therapeutic residential treatment.

We need to be concerned not only about preventing youth from entering the correctional system. We must also be dedicated to providing improved social and vocational services to youth currently incarcerated. This will enable them to return to school or obtain gainful employment upon release with some reasonable chance for success and to prevent them from becoming a part of the "revolving door".

In looking at the total picture, this report would be remiss if it did not raise the issue of apparent racial bias in one or more parts of the juvenile justice system. The issue of racial bias is very sensitive and harmful in general and very painful to the victims. Although racial bias may not be intentional, the disproportionate numbers of black and Hispanic youth in our system may indicate that there may be some correlation between race and juvenile justice system involvement. There is a need to examine the critical decision making points in the various systems and how those decisions impact on black and Hispanic children and families.

There are some very painful questions which must be asked: Why are we willing to accept the warehousing of black and Hispanic children? Why are we willing to lock up children in spite of the fact that it is far more expensive both in terms of money and cost of human lives? How can we avoid this continued problem in the future while protecting society and the safety of its citizens? Too many of our children will have no future at all unless these questions are answered and solutions to the problems are implemented.

As stated earlier in this report, we have reviewed what has been published in New Jersey about the treatment of black and Hispanic youth in the juvenile justice system. Various commissions and committees have given serious attention to these problems but the vast majority of recommendations contained in the reports have not been implemented.

MINORITY ISSUES SUBCOMMITTE REPORT RECOMMENDATIONS

The Governor's Juvenile Justice and Delinquency Prevention Advisory Committee and its Ad Hoc Subcommittee on Minority Issues submit the following recommendations and urge the Governor, the Legislature and other State and local level policy makers to give attention and direct action to ensure that they are implemented. The recommendations are listed in priority order. They are presented with two goals: 1) development of a service delivery system with a mandate to address the early needs of children, particularly black and Hispanic children and youth; and 2) promotion of strong coordinated community-based programs and activities that will maintain youth in their home and reduce the numbers of children/youth who enter the juvenile justice and correctional system, especially black and Hispanic youth who are disproportionately represented in the system.

PREVENTION

Primary prevention and early intervention services need to be developed by the various systems of care to address the problems that minority families face, thereby decreasing the odds for the need for more intensive crisis oriented services later. Primary prevention is defined as a dynamic process that enhances the building of competencies of individuals, organizations and systems which promote positive development of children and youth in their families, in their schools, in their own self-esteem, among their peers and in their communities. These efforts reduce the likelihood of juvenile delinquency and other socially unacceptable behavior before treatment and/or intervention by authorities. It is critical that we respond to youth at risk and provide greater allocations of existing, limited resources for children at earlier ages and stages of their development.

1. The Department of Education should encourage schools to adopt programs that teach the history of all people, especially blacks and Hispanics, and that teach cultural and ethnic pride and build self-esteem.

2. The Governor's Office of Policy and Planning should inventory state agencies to determine what prevention programs they currently fund as well as assess the need for further prevention programming. Funds for prevention programming should be designated by state agencies that provide services to children/youth or contract with agencies providing services to youth. This initiative should be completed within 18 months.

3. The Department of Education should establish life skills programs commencing in kindergarten and continuing through graduation. Life skills programs should include decision making, communication, relationships, planning for the future, coping and making choices. This initiative should commence during the 1990-91 school year.

4. The State should implement a Law Related Education curriculum in all school districts for grades three through eight in order to teach crime prevention, law, justice and penalties for committing crimes. Law Related Education curriculum should be implemented during the 1990-91 school year.

5. The Department of Education should establish a pilot School Advocates Program in three urban school districts (Camden, Trenton, Paterson) during the 1991-92 school year. Student advocates would be hired to assist in identifying youth problems (malnutrition, teenage pregnancy, lack of recreational facilities, homelessness, social promotions) and take action to insist that the students' needs are met. The student advocates would also provide tutorial services and serve as peer role models.

6. As a pilot effort, the Youth Services Commissions in the counties of Essex, Passaic, Monmouth and Atlantic should direct their efforts, in the next year, to creating partnerships between youth serving and religious organizations, juvenile justice, educational and health agencies which will increase their capacity to meet and serve the needs and issues of families, particularly black and Hispanic "at risk" families and children. Technical assistance, information and support should be provided by the commissions. This effort should be evaluated and information disseminated to the remaining Youth Services Commissions.

7. As a pilot effort, the Youth Services Commissions in the counties of Essex, Passaic, Monmouth and Atlantic should establish Youth and Family Centers in one urban area in each county which provides the potential for producing the largest numbers of "at risk" minority children and youth. Such centers shall be staffed by multidisciplinary, multiracial teams. Components of the center shall include: parenting, child care and development, educational opportunities, alternatives that will reinforce positive self-esteem and racial pride and firm linkages to other services needed by these children and families. An evaluation component that will measure the effectiveness of such centers shall be included to measure and document needs, program services and program impact. Funds in the amount of $2 million should be provided by the State Legislature and administered by the SLEPA Juvenile Justice Unit to implement this recommendation.

CULTURAL SENSITIVITY/COMPETENCIES/TRAINING

By understanding the differences between us and examining our perceptions of those differences, we can better relate to each other and live together more harmoniously and productively. Cultural competency requires that History, English and other courses taught in our schools be accurate and complete and include the major events and contributions of all cultures. It also requires that governmental agencies be able to effectively serve all cultures. This requires representation by different cultures in these agencies, as well as training.

Programs, services, professionals and staff must be trained so that they are knowledgable and sensitive to ethnic and cultural issues that impact on the juvenile, the family and the community and so that they can provide the relevant assistance, appropriate decision making and treatment that a case may require.

1. Mandatory cross-cultural training should be provided for all levels of staffing in the educational, social service and juvenile justice systems (from initial contact through the judiciary and corrections) to develop cultural sensitivities and competencies. Funds for this training can be provided through Juvenile Justice and Delinquency Prevention Act funds, the Departments of Education, Human Services and Corrections and the Administrative Office of the Courts jointly. The training should sensitize staff to cultural, ethnic and racial differences. The above training should be reinforced through ongoing monthly conferences of judges, probation officers, police, etc.

2. Existing training programs of the Family Court, the Judiciary and the juvenile justice system should be reviewed and revised as necessary to encourage increased knowledge and sensitivity to cultural issues. Orientation and in-service training should focus knowledge about and understanding of the cultural patterns of targeted groups.

3. The Department of the Public Advocate and the Administrative Office of the Courts should improve legal services for black and Hispanic offenders by providing more minorities as public defenders and translators.

4. Grantors and service providers should ensure that diagnostic, intake procedures, counseling, interviewing techniques, treatment modalities and planning procedures are appropriate to the cultural backgrounds of the juveniles.

5. The State should steadily and substantially increase the employment of minorities in administrative, managerial and judicial positions throughout New Jersey's juvenile justice system until the numbers in positions equal or exceed the proportion of minorities served by the juvenile justice system. There should be continuous efforts on the part of agencies to recruit and hire bilingual and bicultural persons.

6. The Juvenile Delinquency Commission should expand its clearinghouse to include juvenile justice related personnel throughout the country with information on minority researchers and persons with a track record of successfully working with minority families and children at risk. This recommendation should be implemented within 18 months of this report.

LEGISLATION/JUVENILE CODE

There are already laws to address the inequities experienced by minority youth and their families in the juvenile justice, economic, social and educational systems in New Jersey. Many of them just need to be enforced.

1. The Governor should establish an Office of Youth Issues within his office to coordinate existing commissions and committees which focus on children and youth. The Office should develop an action plan to implement recommendations from this report and other reports mentioned in the appendix which would result in positive services to youth with particular concerns for minority youth.

2. The Office of Youth Issues should develop policy, provide leadership and monitor/evaluate to ensure culturally competent and relevant services and policies relative to minority youth and their families.

3. The Supreme Court Task Force on Minority Concerns should expand its efforts in order to examine the extent to which the Code and other criteria used to make juvenile sentencing decisions, especially commitment decisions, and other juvenile justice system decisions (e.g., decisions to divert or not, decisions to detain or release) negatively impact minorities. The Court should then devise a plan to determine how such criteria can reasonably be altered to be truly race neutral.

4. The Legislature should establish a Task Force to review existing legislation to ensure implementation of that legislation as it impacts on youth, particularly minority youth, and to monitor its ongoing implementation. The Task Force should be appointed and its first report issued within 18 months of this report.

EVALUATION AND ACCOUNTABILITY

All governmental funding should require that public and private agencies meet their contractual obligation. It is vital that funds which exist to provide services to alleviate the conditions that cause minority youth and families to enter the juvenile justice system demonstrate that the services are being implemented and are effective. Funding for programs that are not effective should be redirected to other efforts.

1. Monitoring teams should be developed composed of SLEPA JJDP staff, JJDP Advisory Committee members and representatives of the Departments of Human Services, Health, Community Affairs, Labor, Corrections and Education to evaluate selected projects developed specifically to serve minority youth and their families. The team would also be charged with compiling profiles of programs that work, for developing a format for statewide dissemination and for identifying minority program

implementors, idea developers and youth who have benefited as a result of a program or activity. This information can be included in a minority data bank. SLEPA would be responsible for the team activities until such time as an Office of Youth Issues is developed.

2. Funded programs should be monitored on-site at three-, six- and nine-month periods to ensure provision of services, program impact and fiscal accountability.

EMPLOYMENT/VOCATIONAL TRAINING

Minorities are disproportionately represented among the unemployed, under-employed and welfare dependent. Today's black and Hispanic youth will make up a larger segment of tomorrow's less rapidly growing labor force. They will have to be better prepared with competitive skills than they are now if they are to take advantage of the job opportunities that will be available to them.

1. The Department of Labor should encourage state and local agencies that comprise New Jersey's employment and training system to move vigorously towards developing vocational training and job placement programs which develop job skills and reduce chronically high rates of unemployment among inner-city black and Hispanic youth.

2. Funding should be provided to expand youth entrepreneurship opportunities in urban communities.

3. The New Jersey Department of Education revised its funding formulas for urban centers to support employer-school partnerships which will focus on preparing youth for careers in the technology and service fields of the nineties. Mentoring should be an integral part of this process and potential employers should be involved in helping to develop the curriculum support.

FUNDING

Considerable sums of money have been allocated by State and federal governments to address problems of adults in the justice system. Far less is spent to address the needs of children and youth, especially black and Hispanic children. The Legislature should make a tangible investment in youth by providing resources to address the needs of minority youth and their families from prevention activities through community-based services in order to prevent further involvement of youth in the juvenile justice or adult correctional system.

1. Funding should be provided for the establishment of an Office of Youth Issues within the Governor's Office. (Please refer to Legislative recommendations.)

2. The State should provide funding to fully implement the provisions of the New Jersey Code of Juvenile Justice. This would require the funding of community-based alternatives for the court to utilize during disposition of juvenile cases (wilderness programs, residential and non-residential substance abuse treatment programs, vocational education/job training, education programs and juvenile/family counseling). Particular attention should be given to the funding of these resources in large urban, economically depressed areas where large minority populations reside.

3. The Legislature should provide the funds for staffing and supportive services needed by SLEPA to reinforce implementation and evaluation of services to children and youth and for statewide planning in the juvenile justice system.

4. Top priority for planning and funding should be given to new and innovative community-based programs and services at the major pre-adjudicatory levels which are specifically designed to prevent further involvement of youth into the juvenile justice system. This is particularly important for minority juveniles because community-based services are bound to be more culturally competent and thus more effective in treating and rehabilitating juveniles.

5. Funding of programs should encourage the least restrictive types of programs possible, including ample appropriations for alternative and community-based services for juveniles.

6. The New Jersey Legislature should aggressively petition the President and the Congress to substantially increase funding for such Federal programs as Head Start, Youth Corp, JTPA, Title 11A, etc. These programs help our youth get a start in the right direction at an early age.

MISCELLANEOUS RECOMMENDATIONS

1. The Departments of Human Services, Corrections, Education, Community Affairs, Labor and Health should work cooperatively to insure the development of a continuum of services for all youths and families in need of services, with particular attention to the needs of blacks and Hispanics. Community outreach and education should be an integral and ongoing part of all divisions in order to foster the use of alternative services.

2. All possible attempts should be made to prevent youth from moving to a more intensive/intrusive level in the juvenile justice system. No youth should be placed in a restrictive facility (regardless of auspices) solely because of a lack of appropriate services.

3. All member agencies of the juvenile justice system should examine their operations in order to ensure that availability of and access to least restrictive or intrusive treatment options is not dependent on a juvenile's family economic situation.

4. The State should develop the ability to assist community-based organizations as well as encourage counties in constructing programs to serve seriously disturbed youths, including juvenile offenders, with particular attention to the needs of minorities.

5. The Governor's Committee on Children's Services Planning should produce a programmatic resource manual to aid Family Court staffs, public defenders and probation officers in knowing the full range of services available for juvenile offenders.

APPENDIX A

N.J. CHILDREN AND YOUTH COMMITTEES/COMMISSIONS

APPENDIX A

• Governor's Juvenile Justice and Delinquency Prevention Advisory Committee, appointed by the Governor in 1976.

The JJDP Act requires the appointment of an advisory committee by the Governor to advise SLEPA and its supervisory board, the Governor and the Legislature with respect to matters related to juvenile justice and delinquency prevention and to oversee the monitoring of the state's compliance with the mandates of the Act. The Advisory Committee also must review and comment on all juvenile justice and delinquency prevention applications submitted to SLEPA for funding.

• New Jersey Commission on Children's Services, established by the Legislature in 1979.

The Commission was established to review services for New Jersey's children and to identify methods of improving service delivery, promote the development of community-based services for children that strengthen families, foster cooperation among the agencies that provide services and promote community involvement in planning services for children. As a result of the Commission's work, a report was issued in 1982 entitled **Linking Policy With Need.**

• State Youth Services Commission, established by joint administrative agreement of Supreme Court Chief Justice Robert N. Wilentz and Attorney General Irwin Kimmelman in 1981.

The State Youth Services Commission was established to mobilize communities to respond to the needs of their youth, to help coordinate the activities of state, county and community youth serving agencies and to provide a forum through which agencies can more effectively exercise their leadership in youth matters, coordinate their youth programs and identify and solve inter-agency and systemic problems concerning youth.

• County Youth Services Commissions, established through SLEPA funding in three counties in 1981.

County Youth Services Commissions were established in the counties of Middlesex, Burlington and Somerset to improve coordination of services at the local level, identify service gaps and develop local plans to address the needs of their youth. The three commissions were to serve as a liaison to the State Youth Services Commission. The three counties were funded by SLEPA as pilot projects.

The pilot projects served as models for the 1982 Juvenile Code requirement that each county have a citizen advisory committee to assist in the development of a comprehensive plan for the provision of community services and programs to meet the needs of children under the jurisdiction of the Family Court. In 1984, the Chief Justice, the Attorney General and the Commissioner of the Department of Human Services wrote letters to the County Freeholders asking that Citizens Advisory Committees be adapted to the County Youth Services Commission model in order to stimulate on-going planning and coordination efforts at the local level. Since that time, the Youth Services Commission initiative has grown. There are 21 County Youth Services Commissions as well as several regional and municipal commissions.

• Governor's Committee on Children's Services Planning, established by Executive Order in 1983.

This Committee was established to address the deficits and lack of coordination in the planning, provision and evaluation of services for children of New Jersey. In addition, the Committee is mandated to develop specific plans for the implementation of the recommendations of the Commission on Children's Services 1982 report and to make recommendations to the Governor on priority items which could be addressed by gubernatorial action, to develop specific plans for the implementation of the recommendations made to the Governor and to recommend specific action required by state government to maximize effective implementation of Family Court legislation with particular regard to the delivery of those comprehensive services to youth and their families to be provided within the Family Court process.

As a result of its work, the Committee issued a report in 1985 entitled **New Jersey's Action Plan for Children.** In 1986 the Governor's Committee formed the Mental Health Forum to examine the current system of delivering mental health services to emotionally disturbed children and their families. The Forum was made up of a broadly representative group of professionals and private citizens. The final report entitled **Past Due** was issued in 1987.

• Juvenile Delinquency Disposition Commission, established by the Legislature in 1983.

The Juvenile Delinquency Disposition Commission was created by the Legislature when it enacted the New Jersey Code of Juvenile Justice. Its mandates were to study all aspects of the juvenile justice system relating to dispositions and to provide oversight and monitoring of the Code's implementation. In 1986, the Commission issued its first annual report entitled **The Impact of the New Jersey Code of Juvenile Justice.**

As a result of legislation, in 1987 the Commission was renamed the Juvenile Delinquency Commission and mandated to continue to monitor the implementation of the Code of Juvenile Justice, examine all aspects of New Jersey's juvenile justice system with special emphasis on delinquency trends and dispositions, study the types of juveniles who become delinquent and analyze what happens to them, and analyze the reasons for and the effectiveness of the dispositions provided for delinquent youth. In 1988, the Commission issued its second annual report entitled **Juvenile Justice—Toward Completing the Unfinished Agenda.**

- **Task Force on Minority Concerns, appointed by Chief Justice Robert N. Wilentz in 1986.**

This 48-member Task Force was appointed to undertake a critical examination of the concerns of minorities with their treatment in and by the courts and to propose solutions to the identified problems that are within the power of the Judiciary to implement. One of the committees of the Task Force is Minorities and Juvenile Justice.

APPENDIX B

DISSENTING OPINION

MEMORANDUM

TO: GOVERNOR'S ADVISORY COMMITTEE ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

FROM: MICHAEL J. O'SHEA, CHIEF ASSISTANT PROSECUTOR, PASSAIC COUNTY

RE: MINORITY ISSUES REPORT

DATE: FEBRUARY 16, 1990

As a member of the Advisory Committee's Ad Hoc Subcommittee on Minority Issues, I know the effort poured into the Minority Issues Report. It has been formed, discussed and modified in subcommittee and committee meetings. I appreciate the opportunity I, along with all committee members, had to comment on and criticize the report. I agree that there are pressing problems facing minority youth which this report eminently identifies and for which specific recommendations are offered. However, there are some points which I feel are important enough to warrant this memorandum.

The title, "Justice or Injustice: The Disproportionate Incarceration of Black and Hispanic Youth in New Jersey" strongly implies discriminatory policies on the part of law enforcement agencies and courts, which I suggest is not true. Phrases such as "two-tiered system" of justice in which "minority youth are dealt with more harshly than . . . white youth" (p. 6) are inaccurate. Racial, ethnic and religious prejudice has festered and spewed from some people for ages. However, I disagree with any statements or inferences of institutionalized discrimination by the juvenile justice system of New Jersey. They are not supported. In fact, they are belied by the 1988 Annual Report of the Juvenile Delinquency Commission (J.D.C.), upon which the Minorities Report so heavily relies. Such serious statements and inferences should be carefully examined, especially before they are included in a report which will be distributed throughout the state and country.

Footnotes 21 through 26 of the Minorities Report are drawn from five pages of the section of the J.D.C. Report entitled "Focus on Incarceration of Minority Youth" (pp. 51-55). That section of the J.D.C. Report begins (p. 51):

> As of October, 1987, 8 out of every 10 juveniles in state correctional institutions were minorities (66% black, 15% hispanic (sic)).[12] This representation is disproportionate when compared to representation at earlier stages in the system . . .

The J.D.C. Report then cites data showing that more white youth were "arrested" and "sentenced" than minority youth. The report does not indicate how many of these dispositions were probation, more a monitoring agency than a service provider. I suggested that the important question when examining court dispositions is not the "representation" of minorities in the system, but whether they are receiving the services they need. In 1988, as part of my work on the Subcommittee on Minority Issues in the preparation of the Minority Issues Report, I studied the utilization of major, intensive community-based programs for juveniles at risk of incarceration in Passaic County. (This research, including the questionnaires upon which it was based, was provided to the subcommittee on December 19, 1988.) I learned that 93% of the juveniles in these intensive, community-based, non-custodial programs were minority youth. My study (rudimentary as it is) indicated that minority youth were receiving nearly all of the intensive, community-based services offered at "earlier stages" in the system, in contrast to the statement contained in the J.D.C. Report. My research indicated that, in Passaic County in 1987, there was a greater representation of black and Hispanic youth in these earlier stages of the juvenile justice continuum, *i.e.* intensive, community-based programs, than at the final stage—incarceration.

The J.D.C. Report then indicates (p. 51):

> . . . One of every two juveniles arrested in 1986 for an index offense were black, as were nearly 7 out of every 10 juveniles arrested for a violent index offense.

This statistic, adjusted by adding the J.D.C. figures for Hispanic youth, almost mirrors the breakdown of youth incarcerated by race and ethnic group (80%). The J.D.C. Report attaches no significance to this. Instead it compares juveniles incarcerated by race by degree of most serious offense. This table is virtually useless because it does not control for prior adjudications.

The J.D.C. Report then compares incarcerated youth by race, type of offense underlying the disposition and prior record. It finds that minority and white youth incarcerated for similar offenses had similar prior records. This comparison supports drawing the conclusion that dispositions are not discriminatory, but are fairly and evenly imposed. Instead, the J.D.C. Report, because the minority youth did not have more extensive prior records than white youth, looks for other explanations for the high incarceration rate for the minority youth. It then points out that there is a "statistically significant difference between incarcerated white, black and hispanic (sic) juveniles . . ."—minority youth are five to six times more likely to come from single parent families than white youth (pp. 54-55).

The J.D.C. Report goes on to find "troubling" a variation in incarceration rates of youth "regardless of race" between the counties (p. 55). The report finds that one explanation "stood out above the rest in explaining differences in incarceration rates . . ."—the number of minority youth in each county. (*Ibid.*) However, the examples *cited in the J.D.C.* Report contrast Morris and Warren Counties with Camden and

Passaic Counties. Certainly, there are significant differences between these counties in terms of rural-suburban-urban character, crime rates, school drop-outs, unemployment, health care, economic well-being, housing, etc.

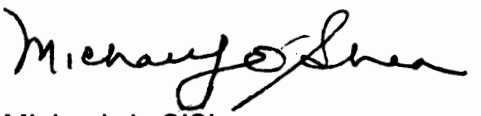
Finally, the J.D.C. Report concludes (p. 55):

> We conclude from the above analysis that the disproportionate incarceration of minority youth cannot be adequately explained by relevant legal factors (i.e., differences in prior adjudication and seriousness of offenses). Other factors, generally, fail to explain the differences as well. The only exception to these findings is the apparent effect that family make-up has on judicial decisions. Our data support a view that when a question of family stability exists the likelihood of incarceration may be greater. The negative impact of minorities, as a result, may be great.

I disagree. The J.D.C. Report itself indicates that the incarceration of minority youth is related to "arrests" for violent index offenses. Furthermore, in specific cases, when a single parent family offers less supervision than a two parent family, then it is one of many legitimate considerations for the Court in determining the best disposition for the juvenile consistent with the "interests of public safety . . ." (*N.J.S.A.* 2A:4A-21c).

Recognizing that, at times, incarceration is necessary to protect the public, and that rehabilitation, and not punishment, is the goal of the juvenile justice system, still the incarceration of our youth is a tragedy for the youth and a loss for society. Discrimination, where it exists, must be opposed. But creating the spectre of institutional discrimination when it does not exist is only divisive and destructive. As such, I object to the title of the Minority Report and to statements indicating the existence of institutionalized discrimination in the juvenile justice system of the State of New Jersey.

I do recognize the myriad problems facing minority youth and impoverished youth of all races and ethnicities today. Therefore, I support the specific, numbered Recommendations of the Minorities Report (pp. 29-38) with the exception of that portion of Recommendation 5 (p. 33) calling for the State to ". . . annually increase by 30% the employment of minorities in administrative, managerial, and judicial positions throughout New Jersey's juvenile justice system . . ." The report contains no information on the employment of minorities in these positions at present. Nor does it explain where the figure of 30% comes from or what the final result of such a hiring policy would be.



Michael J. O'Shea
Chief Assistant Prosecutor
Passaic County

STATE LAW ENFORCEMENT PLANNING AGENCY
JUVENILE JUSTICE AND
DELINQUENCY PREVENTION UNIT

Terry L. Edwards
Chief

Maria Rivera
Principal Program Analyst

Kylthia Roberts
Senior Program Analyst

Roseann DiGaetano
Head Clerk