

The Dream of Equality Is Still Alive

THE REALITY IS A NIGHTMARE

**1995 - 1997 Proposed Policy Recommendations
for African American Children and Families**

Prepared by
Commission on African American Affairs

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TABLE OF CONTENTS

JUVENILE JUSTICE.....	page 2.
EDUCATION.....	page 14.
CHILD PROTECTION/WELFARE.....	page 22.
HEALTH.....	page 27.
ECONOMIC DEVELOPMENT.....	page 29.

JUVENILE JUSTICE
EQUAL APPLICATION
UNDER THE LAW

Problem Statement

The Commission on African American Affairs supports Governor Lowry's proposal of increasing criminal penalties for crimes committed with a gun and against women. Additionally, the Commission supports philosophically some of the concepts contained in the "Hard Time for Armed Crime" initiative that will be proposed to the Legislature.

However, any provisions, particularly pertaining to Juveniles, that offer courts more discretion in the sentencing of youth run counter to the philosophy, intent and provisions of the Juvenile Justice Reform Act of 1977, unless the discretion afforded by courts in imposing the penalties is heavily regulated.

Further, any provision that affords discretion to prosecutors must be regulated. Without strict guidelines governing the charging and prosecution of youth accused racial disproportionality in the administration of juvenile justice may be exacerbated.

Recent research done by Dr. George Bridges, Associate Professor from the University of Washington concluded that there exists substantial racial inequity in the enforcement and prosecution of laws governing juvenile offenses.

Analyses of 1993 Study Data

Minority youth are, on average, prosecuted at higher rates than whites. This occurs despite the fact that more cases involving youth of color than cases involving whites typically are deemed as being insufficient for prosecution and dropped altogether by county prosecutors. Analyses reported in the 1993 study, and subsequent analyses of the prosecution of juveniles in King, Pierce and Spokane counties using the study's data, suggest that race and ethnicity of the accused influences the likelihood of prosecution. However, race and ethnicity typically influence prosecution decisions through other, legally relevant factors.

For example, in Pierce County, youth with a prior record of referrals (regardless of race or ethnicity) and youth referred for serious offenses were much more likely to be charged with crimes than other youth. To the extent that minority youth are more likely to be over-represented in these categories, they are also more likely than white youth to be prosecuted for crimes. In some counties, however, analyses show that youth of color detained pre-adjudication are more likely than others to be charged with crimes, even following adjustment for differences in the seriousness of the youth's offense or his prior criminal history. These findings are troublesome because they suggest that cases may be screened for charging in a manner that may directly disadvantage youth of color.

Studies completed thus far, have been unable to ascertain precisely how race, in conjunction with other factors such as prior record, actually influences a prosecutor's decision to file charges. At issue is not whether race influences the likelihood of prosecution but how. One possible mechanism noted in discussions with prosecutors may involve the identification of minority offenders as "courtroom regulars."

In handling cases, prosecutors may become familiar with names and histories of offenders with prior records -- courtroom "regulars". It is possible that prosecutors may be more inclined to file charges in cases involving these offenders than others. To the extent that youth of color are more likely to have prior referrals and to the extent that their history increases the likelihood of prosecution on any single offense, race or ethnicity may inadvertently influence the decision to prosecute.

The empirical analyses of criminal prosecution in separate counties completed thus far, however, suggests that racial and ethnic disparities in criminal prosecution may be less, on average, in counties with prosecutorial guidelines and standards than in counties with no standards or guidelines.

It must be stressed that unexplained racial and ethnic disparities persist in the criminal prosecution of youth even in counties with guidelines. Nevertheless, the differences in levels of disparity across counties are pronounced. Thus, the mere existence of prosecutorial guidelines and their routine application may assist in reducing levels of racial and ethnic disproportionality.

Analyses of Data from 1991 - 1994

Among youth prosecuted for offenses in 1991 (omitting cases in King County), youth of color constituted twenty-six percent (26%). Approximately seventy-four percent (74%) of those prosecuted were European American (white), eight percent (8%) African American, four percent (4%) Native American and two percent (2%) Asian/Pacific Islander. Approximately eleven percent (11%) of the population of youth prosecuted was Hispanic (Latino). Between 1991 and 1994, the concentration of minority youth prosecuted for crime increased across the state. Analyses of the JUVIS data -- omitting King County-- indicate that by 1994, youth of color constituted thirty percent (30%) of the total population of youth prosecuted.

Approximately seventy percent (70%) of those prosecuted were European American (white), nine percent (9%) African American, five percent (5%) Native American and three percent (3%) Asian/Pacific Islander. Approximately thirteen percent (13%) of the population of youth prosecuted was Hispanic (Latino).

The increases in minority prosecution were fairly uniform across most counties -- the only counties with dramatic increases in the percentages of minorities were smaller counties in which the concentrations of minorities are very low to begin with and any increase in minorities prosecuted appears, as a percentage, to be a pronounced increase. In these counties, the increases are largely statistical artifacts and thus, not noteworthy or necessarily meaningful indicators of changes in levels of disproportionality.

RECOMMENDED PROSECUTING STANDARDS FOR CHARGING AND PLEA DISPOSITIONS

Introduction

The purpose of establishing prosecuting standards for charging and plea dispositions is to ensure uniformity throughout Washington state juvenile justice system. Additionally, they are to help prosecutors understand their own role in the daily exercise of prosecutorial discretion. These standards primarily relate to decisions which are generally made at the charging stage.

These standards are, therefore, not intended to be a substitute for working out appropriate prosecution policies on a local level. However, they are binding on any prosecutor in the State in whole or in part regardless of whether he/she initially agrees to their promulgation in whole or in part.

EVIDENTIARY SUFFICIENCY.

(1) DECISION NOT TO PROSECUTE.

STANDARD: A prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law. The decision not to prosecute or divert shall not be influenced by the race, gender, religion, or creed of the suspect.

GUIDELINES/COMMENTARY (Examples): The following are examples of reasons not to prosecute which could satisfy the standard.

- (a) Contrary to Legislative Intent - It may be proper to decline to charge where the application of criminal sanctions would be clearly contrary to the intent of the legislature in enacting the particular statute.
- (b) Antiquated Statute - It may be proper to decline to charge where the statute in question is antiquated in that:
 - (i) It has not been enforced for many years, and
 - (ii) Most members of society act as if it were no longer in existence; and
 - (iii) It serves no deterrent or protective purpose in today's society; and
 - (iv) The statute has not been recently reconsidered by the legislature.

This reason is not to be construed as the basis for declining cases because the law in question is unpopular or because it is difficult to enforce.

- (c) De Minimis Violation - It may be proper to decline to charge where the violation of law is only technical or insubstantial and where no public interest or deterrent purpose would be served by prosecution.

- (d) Confinement on Other Charges - It may be proper to decline to charge because the accused has been sentenced on another charge to a lengthy period of confinement; and
- (i) Conviction of the new offense would not merit any additional direct or collateral punishment; and
 - (ii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and
 - (iii) Conviction of the new offense would not serve any significant deterrent purpose.
- (e) Pending Conviction on Another Charge - It may be proper to decline or charge because the accused is facing a pending prosecution in the same or another county; and
- (i) Conviction of the new offense would not merit any additional direct or collateral punishment; and
 - (ii) Conviction in the pending prosecution is imminent; and
 - (iii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and
 - (iv) Conviction of the new offense would not serve any significant deterrent purpose.
- (f) High Disproportionate Cost of Prosecution - It may be proper to decline to charge where the cost of locating or transporting, or the burden on, prosecution witnesses is highly disproportionate to the importance of prosecuting the offense in question. The reason should be limited to minor cases and should not be relied upon in serious cases.
- (g) Improper Motives of Complainant - It may be proper to decline charges because the motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.
- (h) Immunity - It may be proper to decline to charge where immunity is to be given to an accused in order to prosecute another where the accused's information or testimony will reasonably lead to the conviction of others who are responsible for more serious criminal conduct or who represent a greater danger to the public interest.
- (i) Victim Request - It may be proper to decline to charge because the victim requests that no criminal charges be filed and the case involves the following crimes or situations:
- (a) Assault cases where the victim has suffered little or no injury;
 - (b) Crimes against property, not involving violence, where no major loss was suffered;

- (c) Where doing so would not jeopardize the safety of society.

Care should be taken to insure that the victim's request is freely made and is not the product of threats or pressure by the accused.

The presence of these factors may also justify the decision to dismiss a prosecution which has been commenced.

Notification: The prosecutor is encouraged to notify the victim, when practical, and the law enforcement personnel, of the decision not to prosecute.

(2) DECISION TO PROSECUTE

STANDARD: Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonable foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact-finder. With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and 9A.64.020 the prosecutor should avoid pre-filing agreements or diversions intended to place the accused in a program of treatment or counseling, so that treatment, if determined to be beneficial, can be proved pursuant to RCW 13.40.160(5).

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact-finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

The categorization of crimes for these charging standards shall be the same as found in RCW 9.9A.440(2).

The decision to prosecute or use diversion shall not be influenced by the race, gender, religion, or creed of the respondent.

Selection of Charges/Degree of Charge

- (1) The prosecutor shall file charges which adequately describe the nature of respondent's conduct. Other offenses may be charged only if they are necessary to ensure that the charges:
 - (a) Will significantly enhance the strength of the State's case at trial; or
 - (b) Will result in restitution to all victims.
- (2) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:
 - (a) Charging a higher degree;
 - (b) Charging additional counts.

This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a respondent's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

3. Prosecutor shall, beginning in December 1995, submit to the legislature an annual report summarizing Decisions to Prosecute/Filings and Decisions not to prosecute, disaggregated by race/ethnicity and age.

4. To the extent feasible, each Prosecutor's office shall designate one or more individuals to review and file juvenile misdemeanors and felonies submitted to the office. Individuals assigned to hold this position should be periodically rotated.

The selection of charges and/or the degree of the charge shall not be influenced by the race, gender, religion, or creed of the respondent

GUIDELINES/COMMENTARY (Police Investigation):

A prosecuting attorney is dependent upon law enforcement agencies to conduct the necessary factual investigation which must precede the decision to prosecute. The prosecuting attorney shall ensure that a thorough factual investigation has been conducted before a decision to prosecute is made. In ordinary circumstances the investigation should include the following:

- (1) The interviewing of all material witnesses, together with the obtaining of written statements whenever possible;
- (2) The completion of necessary laboratory tests; and
- (3) The obtaining, in accordance with constitutional requirements, of the suspect's version of the events.

If the initial investigation is incomplete, a prosecuting attorney should insist upon further investigation before a decision to prosecute is made, and specify what the investigation needs to include.

4. All police shall have a duty to investigate and complete all investigations in a reasonable time or specify reasons why investigations cannot be completed in a reasonable time; or all investigation by police shall be referred to the prosecutor, 14 days after the completion.

Exceptions:

In certain situations, a prosecuting attorney may authorize filing of a criminal complaint before the investigation is complete if:

- (1) Probable cause exists to believe the suspect is guilty; and
- (2) The suspect presents a danger to the community or is likely to flee if not apprehended; or
- (3) The arrest of the suspect is necessary to complete the investigation of the crime.

In the event that the exception to the standard is applied, the prosecuting attorney shall obtain a commitment from the law enforcement agency involved to complete the investigation in a timely manner. If the subsequent investigation does not produce sufficient evidence to meet the normal charging standard, the complaint should be dismissed.

Investigation Techniques:

The prosecutor should be fully advised of the investigatory techniques that were used in the case investigation including:

- (1) Polygraph testing;
- (2) Hypnosis;
- (3) Electronic surveillance;
- (4) Use of informants.

Pre-filing Discussions with Defendant:

Discussions with the defendant or his/her representative regarding the selection or disposition of charges may occur prior to the filing of charges, and potential agreements can be reached.

PLEA DISPOSITIONS (Standard):

- (1) Except as provided in subsection (2) of this section, a respondent will normally be expected to plead guilty to the charge or charges which adequately describe the nature of his or her criminal conduct or go to trial.
- (2) In certain circumstances, a plea agreement with a respondent in exchange for a plea of guilty to a charge or charges that may not fully describe the nature of his or her criminal conduct may be necessary and in the public interest. Such situations may include the following:
 - (a) Evidentiary problems which make conviction of the original charges doubtful;
 - (b) The respondent's willingness to cooperate in the investigation or prosecution of others whose criminal conduct is more serious or represents a greater public threat;
 - (c) A request by the victim when it is not the result of pressure from the respondent;
 - (d) The discovery of facts which mitigate the seriousness of the respondent's conduct;
 - (e) The correction of errors in the initial charging decision;
 - (f) The respondent's history with respect to criminal activity;
 - (g) The nature and seriousness of the offense or offenses charged;
 - (h) The probable effect of witnesses.
- (3) No plea agreement shall be influenced by the race, gender, religion or creed of the respondent. This includes but is not limited to the prosecutor's decision to utilize such disposition alternatives as "Option B", the Special Sex Offender Disposition Alternative, and manifest injustice.

DISPOSITION RECOMMENDATIONS (Standard):

The prosecutor may reach an agreement regarding disposition recommendations.

The prosecutor shall not agree to withhold relevant information from the court concerning the plea agreement.

AN ALTERNATIVE SENTENCING PROGRAM FOR ADJUDICATED YOUTH (Channeling Action into Leadership)

Every adult accepts the fact that there are consequences for every decision. Adults realize that good decisions usually result in good consequences. Today's youth, however, fail to make a connection between decisions and consequences. This "connection" can not be left to chance. Therefore, the Commission on African American Affairs proposes this program as a way of teaching this connection and developing the potential leadership skills within "at risk" youth.

This is a pilot* program offered to a county/court as an alternative to incarcerating low-level, non-violent, youth offenders (age 14 - 17).

Identification of Program Participants

The court/county shall identify up to fifty African American males and other youth of color (age 14 - 17), who are being considered for detention or incarceration. In order to participate in the program, each young man must meet the following criteria:

- Recommendation from the guardian, school, court.
- Demonstrated leadership ability, but ability not reflected in class room
- Agree to random drug screening

Program Operation

In lieu of detention or incarceration, these youth will be remanded to the county/court's program for five months. The program will operate seven days a week. The hours are as follows:

Monday	8:00 a.m. - 5:00 p.m.
Tuesday	8:00 a.m. - 5:00 p.m.
Wednesday	8:00 a.m. - 5:00 p.m.
Thursday	8:00 a.m. - 5:00 p.m.
Friday	8:00 a.m. - 5:00 p.m.
Saturday	8:30 a.m. 12:00 p.m.
Sunday	8:30 a.m. -12:00 p.m.

All other daily hours, the youth could be placed under "house arrest", should the court wish to administer the process.

On Monday of each week, the participants will be required to work as volunteers to earn incentives by performing required duties with pre-approved county service programs such as Boys and Girls Club, YMCA, Public Library, etc. The participants will always be closely supervised and provided meaningful, productive activities.

On Tuesday, Wednesday, and Thursday of each week, the participants will be required to attend classes to improve their basic academic skills. The program will specialize in subjects which are highlighted in the Ninth Grade Proficiency Exam (writing, reading, math, and citizenship).

Each weekend the participant will be required to participate in workshops which teach spiritual development and community responsibility. The program will not teach religion nor lean toward a particular denomination. Rather the program will seek to teach a strong value system which reinforces family and extended family relationships and can serve as the framework for better decisions.

A key innovation of this program is the utilization of retired African American and other teachers of color. We have decided to use "retired educators in order to enhance the relationship between youth and the elders of the community. Retired educators are perhaps the most under-utilized resource in the field of education. It is our hope to encourage other organizations to tap this wealth of knowledge, wisdom, and experience. In addition, because of their experience in developing academic lesson plans, we can ensure that each student receives proper academic credit from their home school.

Finally, it is the Commission's belief that one of the major reasons many of our youth experience problems is because of their lack of self-esteem. Although we will address this condition during our curriculum entitled "Goal Setting and Realization", we wish to demonstrate that education is rewarding. Therefore we have developed an incentive system which averages only \$25.00/week per student.

Incentive System

Incentive is defined as something that serves as a stimulus to action by appealing to self-interest". Our program recognizes the importance of self-esteem and self-confidence in correcting behavior problems.

Many young men are attracted to inappropriate behavior by the lure of immediate 'peer popularity' and 'materialism'. Unfortunately, there are very few short term rewards for academic or behavior excellence. Our program assumes it is possible to provide incentives to our participants without suggesting that inappropriate behavior in school or the community will be rewarded. Therefore, we have developed a system which encourages our participants through use of the following:

- o Field Trips
- o T-shirts
- o Tapes of Popular Groups
- o Tickets to Concerts/Theaters/Sports Events

These incentives will be presented only after consultation between the program staff and the participant's family.

A COMMUNITY DAY-REPORTING PROGRAM FOR ADJUDICATED YOUTH
Key Elements of Program Curriculum

- African American heritage and history
- Relationship and responsibility to the community
- Study and test taking skills. Subjects:
 - Math
 - Reading
 - Writing
 - Citizenship
- The importance of positive value system
- Goal setting and realization
- Male responsibilities
- Emotional and personal growth and development
 - Anger
 - Time Management
 - Stress
 - Using Money Wisely
- Social responsibilities
- Male/Female responsibilities & relationships, including family responsibilities and relationships

* *This Pilot Program is designed by the Ohio Commission on African American Males.*

EDUCATION

**Are Washington State High Schools
Preparing Youth for the 21st Century?**

**Analysis of Minority Youth in
Advanced Course Work**

Are Washington State High Schools Preparing Youth for the 21st Century?

Analysis of Minority Youth in Advanced Course work

INTRODUCTION

WHY THIS STUDY MATTERS

There is a general consensus that youth from minority groups are under-represented in precollege course work and/or gifted/accelerated programs in high schools. This under-representation is one of the major reasons minority youth do not have an equal opportunity to successfully pursue a college education.

Ultimately, this means that fewer youth of color, particularly African American youth, will be equipped to compete in the increasingly technical, information-driven work place. Should this trend hold, it could seriously affect the state's economic future, particularly as minority representation in the work force continues to grow.

ABOUT THIS STUDY

The Commission on African Americans affairs researched and wrote this report with the assistance of the University of Washington Center for Change in Transition. The data presented are from eight Washington State School districts (Seattle, Tacoma, Spokane, Renton, Yakima, Richland, Kennewick, and Pasco).

The goal is to provide information on students of color in Washington state high schools. The data, such as they are, lay the foundation for continuing research on the educational conditions of minority youth. Such research is urgently needed.

KEY PRELIMINARY FINDINGS

The current data base from districts and other sources is inadequate for completely and accurately describing the educational condition of the state's minority students. Acquiring data disaggregated by race is exceedingly difficult. Policy makers are necessarily impeded by this lack of information. It is impossible to address low minority achievement and/or under-representation in pre-college studies when the full scope of the problem is unclear and available information is incomplete or unusable.

This lack of readily accessible, disaggregated data certainly must limit the capacity of local districts to accurately forecast potential student needs and formulate solutions to the challenges facing students of color. The Recommendations which follow describe the research urgently needed to fill the information gap which now constrains the development of sound policy to aid minority youth.

HIGHLIGHTS OF STUDY FINDINGS:

The balance of the report displays data summaries and general finds attainable from existing data. These data must be interpreted with caution. Although these data and findings are preliminary and limited in scope, they do paint a bleak picture which demands immediate attention.

*Achievement scores indicate that white students, as a group, tend to score higher than students of color.

*Enrollment in pre-college and accelerated programs is highly variable across all the districts. All of the districts have some type of accelerated program(s). These programs are highly variable across the districts, so we were uncomfortable comparing the data across districts. We converted available data into usable forms to compare enrollments by ethnic group WITHIN (not among) the districts.

*Low percentages of ALL students were enrolled in accelerated programs.

*In general, white and Asian/Pacific Islander students were enrolled in gifted/accelerated programs at higher percentages than youth from the other ethnic groups.

*Minority students are not evenly distributed across districts.

African American and Asian/Pacific Islander students are found primarily in Seattle, Tacoma, and Renton, while a higher percentage of Hispanic students are found in Pasco, Yakima, and Kennewick.

GENERAL RECOMMENDATIONS:

*School districts must improve their data/information systems to provide relevant information disaggregated by race/ethnicity.

*School districts should ensure that all students are performing at or above their grade level, particularly in kindergarten-5 reading, mathematics, and language.

*A comprehensive analysis of the eight districts should be conducted to attempt to verify the results of this review and to begin to identify possible causes for the under-enrollment of minority youth in pre-college course work. Such analysis is the cornerstone of any effort to develop intervention strategies to reverse current trends.

*School districts should ensure that all students have access to pre-college courses, not just those "traditional" students who know college is an option. All students and parents should be informed about course requirements for high school graduation and college preparation.

RECOMMENDATIONS FOR STRUCTURING FURTHER RESEARCH

The data collected for this report generally confirm what interests observers already knew; too few minority youth are enrolled in pre-college/gifted/accelerated programs in the state's high schools. In light of this finding, further research is warranted both to clarify the scope of the problem and to frame possible solutions.

However, the next round of research, data collection and evaluation, would necessarily be highly rigorous and exhaustive. Such an undertaking is beyond the current scope and funding of the Commission and the Center -- unless partnerships/resources are developed to facilitate the research.

Likewise, successfully pursuing further research would require other data collectors to upgrade their methods, including school districts.

STUDY RECOMMENDATION 1

In designing further research, investigators must assume that the reasons for low achievement/under-representation are UNKNOWN. There could be multiple causes for low

achievement/under-representation.

Likewise, certain of these causes could be entirely unsuspected. Given these possibilities, any research design must allow any and every possible answer to be revealed-- the data collected must not preclude identification of possible causal relationships.

STUDY RECOMMENDATION 2

While certain causes for low achievement/under-representation could be entirely unknown, other causes are highly probable and warrant exploration as follows:

A) Many students enter the ninth grade with poor basic skills and are therefore unlikely to succeed if enrolled in advanced/college-prep courses.

B) Some students enter the ninth grade with requisite skills but, for some reason, do not enroll in advanced/pre-college courses.

C) Some students enter the ninth grade with the requisite skills, enroll in advanced/college prep courses, and subsequently fail.

For categories A, B, and C, further exploration is warranted to quantify the students who might fit each description, to clarify why they are not enrolling and/or succeeding, and to devise solutions to bolster advanced pre-college enrollment and successful course completion. Likewise, successful students must be studied to identify how and why they are succeeding.

Various interviews must be conducted with students, parents, teachers, counselors, and others to identify the root causes of both excellent and poor academic performance among minority students. Certain likely areas of concern should be considered and evaluated in further reviews as follows:

For Category A: Students with both high and low skill levels should be interviewed to identify possible reasons why basic skills were or were not acquired in elementary and middle school. Possible reasons include: poor instruction; inappropriate instruction; "tracking" at the elementary level; and family issues, including lack of academic support, poverty, mobility which precluded consistent appropriate school attendance.

For Category B: Students, parents, teachers, and school counselors should be interviewed to determine why some students possessing requisite skills do not enroll in advanced classes. Possible causes include: low expectations of students held/expressed by teachers, counselors, parents, or students; "tracking" of minority students and/or low-income students; peer pressure which downgrades academic achievement; and student desires to maintain high grade point average by avoiding challenging course work.

For Category C: Various subjects should be interviewed to determine why students possessed with the requisite skills ultimately fail. Possible causes include: poor instruction; inappropriate instruction; low expectations of students held/expressed by teachers (even racist views held/expressed); low student self-esteem; poor student work ethic; lack of academic support at home; conflicting options/opportunities, including sports, jobs, and peer activities.

"UNEQUAL PROTECTION"

**Has Washington State Failed to Adopt Title VI
of the Federal 1964 Civil Rights Acts?**

Inconsistency Between State and Federal Laws to Protect all Students in Washington State Public Schools

PROBLEM STATEMENT:

From 1990 through 1994 the U.S. Department of Education, Office of Civil Rights, Region X, received 159 discrimination complaints against educational institutions/schools in Washington State. From January 1992 to November 1994, for K-12, Community College/Vocational Technical Institutes and 4-year institutions, the Washington State Human Rights Commission received 62 complaints.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in educational programs or activities receiving Federal financial assistance.

The Commission on African American Affairs has major concern about the existence of discrimination on the basis of race, color, national origin, or disability. The existence of racial incidents and harassment denies affected students the right to an education free of discrimination.

The Preamble to the 1992 Revised Code of Washington State's Title IX, Section I of the Washington State Constitution reads:

"It is the paramount duty of the State to make ample provision for the education of all children residing within its borders, without distinction or reference on account of race, color, caste, or sex."

The Washington State Human Rights Commission was established by the State Legislature in 1949 to administer and enforce the state law against discrimination,

Chapter 49.60 RCW, These statutes prohibit discrimination in places of public accommodation and in employment based on race, creed, color, national origin, age (40-70), sex, marital status or physical, sensory or mental disability. Schools are defined as places of public accommodation under RCW 49.60.215.

RECOMMENDATION:

The Commission on African American Affairs advocates changes to create the **Racial Equality Chapter 28.A** to address these findings:

Findings - Discrimination exists in the educational opportunities afforded to students based on race, color, national origin, and disability at all levels of the public school in Washington state. This inequality is a breach of Article XXXI, Section 1, Amendment 61, of the Washington State Constitution, which requires equal treatment of all citizens regardless of race, color, national origin, or disability. This violation of rights has had a deleterious effect on the individuals affected and on society.

Intent - Recognizing the benefit to our state and nation of equal educational opportunities for all students, it is the intent of this Act to strengthen state law to prohibit discrimination on the basis of race, color, national origin, disability or sex for any student in grades K-12 of the Washington public schools.

RCW 28A Regulations, guidelines to eliminate discrimination -- Scope. The Superintendent of public instruction shall develop rules and guidelines to eliminate race, color, national origin, or disability discrimination as it applies to public school employment, counseling and guidance services to students, access to course offerings, in textbooks and instructional materials used by students and racial harassment policy.

- (1) Specifically with respect to counseling and guidance services for students, they shall be made available to all students equally. All certificated personnel shall be required to stress access to all career and vocational opportunities to students without regard to race, color, national origin or disability.
- (2) The superintendent of public instruction shall also be required to develop an equity-self-evaluation survey to distribute every three years to each local school district in the state to determine equitable placement and opportunity.
- (3) Specifically with respect to course offerings, all classes shall be required to be available to all students without regard to race, color, national origin, or disability.
- (4) Specifically with respect to textbooks and instructional materials, which shall also include, but not be limited to, reference books and audio-visual materials, they shall be required to adhere to the guidelines developed by the superintendent of public instruction to implement the intent of this chapter: Provided, that this subsection shall not be construed to prohibit the introduction of material deemed appropriate by the instructor for educational purposes.
- (5) **Racial Harassment Policy** - By December 31, 1995, the superintendent of public instruction shall develop criteria for use by school districts in developing racial harassment policies. The criteria shall address the subjects of grievance procedures, remedies to victims of racial harassment, disciplinary actions against violators of the policy, and other subjects at the discretion of the superintendent of public instruction. Disciplinary actions must conform with collective bargaining agreements and state and federal laws. The superintendent of public instruction also shall supply sample policies to school districts upon request.

By June 30, 1996, every school district shall adopt and implement a written policy concerning racial harassment. The policy shall apply to all school district employees, volunteers, parents, and students, including, but not limited to, conduct between students.

School district policies on racial harassment shall be reviewed by the superintendent of public instruction considering the criteria established under (5) of this section as part of the monitoring process.

The school district's racial harassment policy shall be conspicuously posted throughout each school building, and provided to each employee. A copy of the policy shall appear in any publication of the school or school district setting forth the rules, regulations, procedures, and standards of conduct for the school or school district.

Each school shall develop a process for discussing the district's racial harassment policy. The process shall ensure the discussion addresses the definition of racial harassment and issues covered in the racial harassment policy.

Racial harassment as used in this section means if one of its agents or employees, acting within the scope of his or her official duties, has treated a student differently on the basis of race, color, or national origin in the context of an educational program or activity without a legitimate, nondiscriminatory reason so as to interfere with or limit the ability of the student to participate in or benefit from the services, activities or privileges provided by the recipient.

RCW 28A. Administration. The office of the superintendent of public instruction shall be required to monitor the compliance by local school districts with this chapter, shall establish a compliance timetable and rules for enforcement of this chapter, and shall establish guidelines for affirmative action programs to be adopted by all school districts.

RCW 28A. Civil Relief for violations. Any person aggrieved by a violation of this chapter or aggrieved by the violation of any rules or guidance adopted hereunder, shall have a right of action in superior court for civil damages and such equitable relief as the court shall determine.

RCW 28A. Enforcement - Superintendent's orders, scope. The superintendent of public instruction shall have the power to enforce and obtain compliance with the provisions of this chapter and the regulations and guidelines adopted pursuant thereto by appropriate order made pursuant to chapter 34.05 RCW which order, by way of illustration, may include, the termination of all or part of state apportionment or categorical moneys to the offending school district, the termination of specified programs in which violations may be flagrant within the offending school district, the institution of a mandatory affirmative action program within the offending school district, and the placement of the offending school district on probation with appropriate sanctions until compliance is achieved.

RCW 28A. Chapter supplementary. This chapter shall be supplementary to, and shall not supersede, existing law and procedures and future amendments thereto relating to unlawful discrimination based on race, color, national origin or disability.

CHILD PROTECTION / WELFARE

THE FORGOTTEN CHILD

**ABUSED AND NEGLECTED AFRICAN
AMERICAN CHILDREN
IN
WASHINGTON STATE**

Problem Statement:

Statistics indicate that there is a significant correlation between poverty, child abuse/neglect and crime. Children of color, particularly African American children, frequently suffer from a panoply of adverse conditions - infant mortality, abandonment, lack of adequate supervision, parents who are abusing drugs or alcohol, untreated health problems, psychological and physical stress.

Additionally, they may become victims of a precarious economic existence, characterized by inadequate housing, high unemployment, and educational opportunities.

A recent Governor's Juvenile Justice Advisory Committee report stated that there has been a steady increase in the number of children and their families referred statewide to Children Protective Services (CPS) from 1988-1991 (SEE TABLE 1).

Table 1
CPS Families Referred From 1987 - 1992

MONTH	1987	1988	1989	1990	1991	1992
January	2,316	1,613	3,382	3,810	4,564	4,299
February	2,167	1,714	2,975	3,368	4,064	5,058
March	2,688	2,186	3,992	4,189	5,039	5,058
April	2,257	1,836	3,591	3,983	5,080	5,780
May	2,187	2,051	4,120	4,198	5,760	5,531
June	2,101	1,867	3,774	3,787	4,993	5,334
July	1,911	2,222	3,346	3,324	4,963	5,005
August	1,608	3,270	3,500	3,581	5,100	5,008
September	1,755	3,215	3,513	3,497	5,100	5,008
October	1,763	3,330	3,950	3,650	3,591	
November	1,638	3,068	3,102	4,199	4,811	
December	1,407	3,036	2,978	3,858	4,306	
Total	23,798	29,408	42,223	45,444	59,849	46,453
Average Per Month	1,983	2,451	3,519	3,787	4,987	5,161

However, in 1992 and 1993, there was a slight drop in the number of referrals to CPS (note, during this period of time Department of Social and Health Services (DSHS) and Division of Children and Family Services (DCFS) implemented a new data reporting system). Although data from 1988-1991 was not readily available by race, there is a disproportionate representation of children of color, particularly African American children, referred to CPS.

According to the State's 1990 census, children of color represented 18 percent of the state's 0-17 year old population; African Americans represented 4 percent (See Table 2).

Table 2
Racial Distribution of Juvenile Population, 1990 Census

White	1,069,468
African American	50,274
Hispanic	86,173
American Indian/ Native Alaskan	29,412
Asian/ Pacific Islander	64,491
Other	47,742
Total	1,261,387

Yet, in 1992 and 1993, children of color represented 27-30 percent of those children referred to CPS. African American children represented 12-15 percent of those children referred to CPS during the same time period (See Table 3).

Table 3
Data for January 1992 - December 1992
Race / Ethnicity of Child Abuse Victims

White	26,806
African American	3,351
Hispanic	2,492
American Indian/ Native Alaskan	2,186
Asian/ Pacific Islander	937
Other	420
Unknown	5,687

Table 4
Data for January 1993 - December 1993
Race / Ethnicity of Child Abuse Victims

White	31,884
African American	3,962
Hispanic	1,533
American Indian/ Native Alaskan	2,655
Asian/ Pacific Islander	812
Other	1,905

According to DCFS, "Out of Home" placements from July 1991 to August 1992, was an average of 6,600 children per month served in foster care.

In October of 1993, a total of 7,234 placements were made with 30 percent of those children being children of color (See Table 5). DCFS also monitors approximately 1,000 monthly placement of children in homes of relatives.

Table 5
Out of Home Placements - October 1993

White	4,536
African American	1,112
Hispanic	376
American Indian/ Native Alaskan	896
Asian/ Pacific Islander	37

Conclusion:

Preliminary findings are significant in three respects. First, there is a disproportionate number of children of color, particularly African American children, referred to CPS and who are in "Out of Home" placements, compared to the relatively small percentage of children of color, particularly African American, ages 0-17, who live in Washington State. According to the National Black Child Development Institute in Washington D.C., a 1990 study of children in foster care concluded that Seattle's African American children entered foster care at a younger age and remained longer in care than other children.

Second, there appears to be no statewide strategy in place to reduce the disproportionate representation of children of color referred to CPS and who are in "Out of Home" placements.

Third, there is a need for a comprehensive examination of services provided to children and their families, especially culturally relevant services, and efforts to prevent "Out of Home" placements of children.

Caring for children must become a priority for our state. We must address the following questions: What are the characteristics of the child and their family? Does the child have a safe and nurturing environment? What type of services are they receiving before "Out of Home" placement occurs? Do the child's parents and/or care takers have a history of drug abuse or alcohol?

Children are this state's greatest resource. In order to protect this resource, it is essential that all children have a safe and nurturing environment, decent housing, an adequate education, and health services.

Additionally, there is need for more assistance to disadvantaged families in the supervision and rearing of children. The Commission of African American Affairs urges the legislature to increase funding and services not only for abused or neglected children, but also for the entire family.

Recommendations:

Racial Disproportionality--Data Collection--Annual report.

The Secretary/Department of Social and Health Services, shall collect data to monitor any disparity in case referrals, investigations, processing/dependency hearings, or permanency planning of cases involving children and their families due to economic, gender, geographic, or racial factors.

Beginning December 1, 1995, the Secretary/department shall report annually to the legislature on economic, gender, geographic, or racial disproportionality in the rates of referrals, investigations, "out of home" placements (receiving, foster, group, or relative care) services/programs, treatment, and permanency planning in the state's child welfare system.

The report shall cover the preceding calendar year. The annual report shall identify the causes of such disproportionality and shall specifically develop intervention strategies to effectively address any economic, gender, geographic, or racial disproportionality in referrals, investigations, processing/dependency hearings, "out of home" placements, (receiving, foster, group, or relative care) services/programs, treatment, and permanency planning in the state's child welfare system.

Additional Recommendation:

Exchange of Information... Amend Chapter 13.50 as follows. Schools receiving information pursuant to this chapter shall use the information solely for the purpose of developing educational service plans for and providing educational services to the juvenile who is the subject of the information.

HEALTH

IMPROVING THE HEALTH CONDITIONS FOR AFRICAN AMERICANS AND OTHER UNDER SERVED COMMUNITIES

INTRODUCTION:

African Americans are at higher risk for all diseases due to a combination of poor economic conditions, availability and accessibility of health services, education, knowledge regarding health care issues.

African Americans suffer poor health care services and delivery. Many are faced with the added dilemma of not being able to afford health care and, thus may not seek treatment. Many African Americans have complained to the Commission on African American Affairs that they would love to enroll in the Basic Health Plan. But, that the premiums are "too high".

Additionally, that the benefits are designed for depth and not breadth. BHP's benefits does not include Vision, Dental, Mental Health, Chemical Dependency or Physical Therapy.

Providing accessible and affordable health care could significantly reduce high morbidity and mortality rates in the African American population.

RECOMMENDATIONS:

1. Increase the amount of Basic Health Premium subsidy to reduce the cost enrollment in the Basic Health Plan.
2. To increase awareness and enrollment in the Basic Health Plan by African Americans and other under served communities.
3. Review the Basic Health enrollment compared to targets set by the Legislature and the Health Care Authority. Additionally, BHP must develop an outreach and marketing strategy for African Americans and under served communities

ECONOMIC DEVELOPMENT

Why is poverty increasing for African Americans while others are prospering?

PROBLEM STATEMENT:

It is important that poverty be recognized as a problem in all communities. It is not just rural areas or low income downtown neighborhoods that suffer from poverty and economic distress.

Poverty is part of every community in all parts of the state. The Kent Valley, Lake City, Burien, North Seattle, Lakewood, Lynnwood, Everett, Bremerton, and Port Orchard all have areas where more than 15% of the population is poor. Poverty rates increased from 9.8% in 1980 to 10.9% in 1990. The total number of citizens living below the poverty level increased from 395,000 to 518,000. Children and the elderly have been hit the hardest by poverty.

In the labor force, the unemployment rate in 1990 is about 5.7 percentage compared to 7.4 percent in 1980. By race, however, the difference and the trend over the decade are significant: Unemployment rates for African Americans and Hispanic are still at double-digit levels. Although the rates have shown no change for African Americans, they have risen for Hispanics, Native Americans and Asian Americans.

The focus of concern must be on addressing the growing disparity that exists between African Americans, other people of color and whites. Many may already be familiar with certain areas in the central Puget Sound region with high rates of poverty like Seattle's Central District and Rainier Valley or the Hilltop and Eastside neighborhoods in Tacoma.

Additionally, the complex issues surrounding economic development needs of African Americans need to be examined more comprehensively. Special attention should be given to adapting the State's economic development programs more directly to addressing the unique economic needs of the inner city.

RECOMMENDATIONS:

1. The State should provide regular increases in the minimum wage.
2. The State should provide business assistance resources such as management and technical consulting service, employment training, market research and mentoring programs within inner cities.
3. To transfer any outstanding balance in Community Economic Revitalization Board (CERB) and Public Works Trust Fund (PWTF) from the 1993 - 1995 biennium forward. Recapitalize CERB and PWTF funds with additional infrastructure dollars and target it to inner city revitalization efforts.
4. Establish a micro enterprise loan fund to provide a source of capital for small businesses. Public and private sectors should work with the Department of Community Trade and Economic Development to create a micro loan program providing capital to small businesses, with emphasis on African American communities.