

**AMERICAN BAR ASSOCIATION
CRIMINAL JUSTICE SECTION
COMMISSION ON MENTAL AND PHYSICAL DISABILITY LAW
SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES
STEERING COMMITTEE ON THE UNMET LEGAL NEEDS OF CHILDREN
STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS**

REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

1 RESOLVED, That the American Bar Association encourages state, local and territorial bar
2 associations, judges, prosecutors, defenders and police to instill public confidence in the fairness
3 of the justice system by making concerted efforts to assure that the justice system provides fair
4 and equal treatment for all youth.
5

6 FURTHER RESOLVED, That the American Bar Association urges state, local and territorial bar
7 associations, judges, prosecutors, defenders and police to address disparate treatment of racial
8 and ethnic minority youth in the justice system as a serious problem by adhering to the following
9 principles:

- 10 1. State, local, and territorial bar associations should provide education and training on
11 addressing the disparate treatment of youth and ensure that courts maintain the goal of
12 reducing disparate treatment.
- 13 2. Judges should obtain training on the disparate treatment of youth, promote the use of
14 objective risk assessments, guard against overcharging, ensure meaningful access to
15 counsel, and maintain a jurisdictional goal of reducing disparate treatment.
- 16 3. Prosecutors should obtain training on the disparate treatment of youth, ensure their
17 decisions are based on objective criteria, seek alternatives to formal prosecution, and take
18 a leadership role in ensuring reduction in the disparate treatment of youth.
- 19 4. Defenders should obtain training on the disparate treatment of youth, advocate for
20 improved data collection and use of objective risk assessments, ensure that their clients
21 receive culturally appropriate services, advocate for community based alternatives to
22 detention, and maintain in active role in reducing disparate treatment
- 23 5. Police should obtain training on the disparate treatment of youth, keep detailed data
24 regarding their contact and geographic patrolling of youth, be familiar with diversion and
25 community-based programming, work with court personnel to develop community
26 resources, and take a leading role in reducing the disparate treatment of youth.
27

REPORT

I. Background

The American Bar Association's core mission is "to be the national representative of the legal profession, serving the public and the profession by promoting justice, professional excellence and respect for the law." The ABA has expressed its dedication to justice through 11 main goals, the first two of which are (1) to promote improvement in the American system of justice and (2) to promote meaningful access to legal representation and the American system of justice for all persons regardless of their economic or social condition.ⁱ

An extensive amount of research indicates that racial and ethnic minorities in many jurisdictions throughout the United States do not have meaningful access to legal representation or the American system of justice. One of the most troubling results of this is the over-representation of racial and ethnic minorities in the juvenile and criminal justice systems. Over-representation means that racial and ethnic minorities are represented disproportionately in relation to their representation in the general population (see Figure 1). Additionally, the ABA has made it a priority to initiate legal remedies to eliminate discrimination.ⁱⁱ Therefore, consistent with the ABA's longstanding censure of racial discrimination, policy is needed to combat the racial and ethnic disparities within juvenile justice decision-making. By providing recommendations for the legal profession and law enforcement to follow, the ABA can contribute to fairness and justice for all young people.

II. Existence of Disproportionate Minority Representation

In recent decades, advocates, researchers, policymakers, and the media have highlighted the issue of disproportionate minority representation in the juvenile justice system.

CONGRESS AND OJJDP

Congress first addressed the over-representation of youth of color in amending the Juvenile Justice and Delinquency Prevention Act (JJDP) in 1988 to require states participating in the JJDP formula grants program to:

address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population.ⁱⁱⁱ

The requirement—known as the “DMC mandate”—focused on over-representation of youth of color in confinement.

In 1992, Congress again amended the JJDP and added the DMC mandate to the list of core requirements for funding eligibility. In order for states to receive federal block grant funds for juvenile justice, states must comply on four issues:

- (1) Deinstitutionalization of status offenders;
- (2) Sight and sound separation of juveniles accused or found guilty of delinquent acts from adult inmates in jails and other institutions;
- (3) Removal of juveniles from adult jails, lockups and other adult facilities;
- (4) Prevention and systemic efforts to address disproportionate minority confinement.

The JJDPa directed states to identify the extent to which disproportionate minority confinement exists, to assess the reason that it exists, to develop intervention strategies to address its causes, and to monitor the interventions to ensure the problems to not recur.

As a result of the DMC mandate, states started to collect data on over-representation. In 1997 the Office of Juvenile Justice and Delinquency Prevention (OJJDP) published a bulletin that documented the Status of the States regarding DMC across the nation. The report, entitled *Disproportionate Confinement of Minority Juveniles in Secure Facilities*, found that in 1996 youth of color comprised about one-third of the juvenile population yet accounted for about two-thirds of the detained and committed population.^{iv} In a 1999 report entitled *Juvenile Offenders and Victims*, OJJDP reported that African-American youth are over-represented not only at detention, but at all stages of the system.^v

In 2002, Congress reauthorized and President Bush signed the JJDPa and expanded the focus of the DMC requirement to address disproportionality beyond confinement to every contact point in the juvenile justice system.^{vi} Those in the field now refer to the issue as disproportionate minority representation or “DMR” to indicate over-representation at all stages of the system.

REPORTS ON DMR

In 1998, the Youth Law Center—in partnership with other organizations—developed Building Blocks for Youth, an initiative to address over-representation and racial disparities affecting youth of color. Since 2000, Building Blocks for Youth has released a series of reports on the over-representation and disparate treatment of youth of color in the justice system.

Building Blocks for Youth’s *And Justice for Some* (2000) illustrates the extent of DMR (see Figure 1). The report notes that youth of color suffer from a “cumulative disadvantage,” in that initial disparities at arrest are compounded by disparities that occur later in the process.^{vii} When added together, these disparities, even if they are relatively small at each stage, can produce large negative effects for youth of color.

OJJDP has also acknowledged the impact of race on juvenile justice proceedings. In its most recent study of research on disproportionate minority confinement, OJJDP found that the majority of studies conducted across the nation report that race affects the processing of youth at all stages of their involvement with the justice system.^{viii}

Figure 1: Disproportionate Representation of Youth of Color in the Justice System

In 1998 African-American youth comprised 15% of the youth population nationwide yet made up:

- 26% of juvenile arrests;
- 31% of referrals to juvenile court;
- 44% of the detained population;
- 34% of youth formally processed by the juvenile court;
- 32% of youth adjudicated delinquent;
- 46% of youth judicially waived to criminal court;
- 40% of youth in residential placement;
- 58% of youth admitted to state adult prison.

Source: Office of Juvenile Justice and Delinquency Prevention report entitled *Juvenile Offenders and Victims, 1999 National Report*.

DMR VS. DISPARATE TREATMENT

Some argue that over-representation occurs because youth of color commit more crimes than White youth. Some studies of delinquent behavior show that African-American youth self-report more offenses than Whites.^{ix} Social and economic factors may partly explain the differences. A National Research Council publication, *Juvenile Crime, Juvenile Justice*, states that “more minority children, and black children in particular, are subject to risk factors associated with crime, such as living in communities characterized by concentrated poverty and social disorganization.”^x Furthermore, self-reporting rates vary considerably by type of behavior. In *Pathways to Juvenile Detention Reform: Reducing Racial Disparities*, the Juvenile Detention Alternatives Initiative of the Annie E. Casey Foundation cites a survey finding that White youth report using drugs at 6 to 7 times the rate of African-Americans.^{xi} Nevertheless, African-American youth are arrested at much higher rates than Whites for drug crimes.

In general, research shows that the difference of self-reporting of delinquent behavior between African-American and White youth is not as large as the difference in arrest rates—which suggests that factors other than behavior differences lead to DMR. Research suggests that other dynamics may be at play—including differential police policies and practices (e.g. targeting patrols in low-income neighborhoods), location of offenses (e.g. youth of color selling and using drugs on street corners, and White youth selling and using drugs in homes) or racial bias within the justice system.^{xii}

Regardless of the causes of DMR, studies indicate that, compared to White children, youth of color receive harsher and differential treatment in the justice system. The Building Blocks for Youth report, *And Justice for Some*, shows that African-American youth are more likely than White youth to be formally charged in juvenile court, *even when referred for the same type of offense*. Furthermore, among youth who commit similar types of offenses, youth of color are

more likely than White youth to be sent to state institutions, for longer periods of time, and less likely than White youth to be placed on probation.

Donde Esta La Justicia?, released in 2002 by Building Blocks for Youth, finds that Latino youth also receive disparate treatment in the justice system.^{xiii} The study reports that in 1993, among youth with no prior admissions to state facilities, Latino youth charged with drug offenses were admitted to public facilities at 13 times the rate of White youth; for youth charged with violent offenses, the admission rate to state facilities for Latino youth was more than 5 times the rate for White youth. In fact, these numbers do not represent the true extent of the disparities Latino youth face. Because Latino youth are often listed as “White” in data collection, the report notes that data on Latinos is often inadequate and actually under-counts the degree of over-representation of Latino youth, while mistakenly inflating incarceration rates of White youth.^{xiv}

III. Promising Approaches

Research suggests that addressing racial and ethnic disparities within the juvenile justice system is difficult, but not impossible. The causes and mechanisms for how race and ethnicity impact juvenile court processing differ among jurisdictions. Nonetheless, important lessons can be learned from efforts that have sought to reduce the disparities.

Juvenile Detention Alternatives Initiative

In 1992 the Annie E. Casey Foundation developed the Juvenile Detention Alternatives Initiative (JDAI) to help local jurisdictions establish effective and efficient justice systems. The project’s mission is to “reduce the number of children unnecessarily or inappropriately detained; to minimize the number of youth who fail to appear in court or reoffend pending adjudication; to redirect public funds toward successful reform strategies; and to improve conditions of confinement.”^{xv} In its work, JDAI has led efforts to reduce disproportionate representation of youth of color in local juvenile justice systems.^{xvi}

Some counties that have adopted JDAI strategies have made progress toward the goal of eliminating disproportionate representation and disparate treatment of youth of color. For instance, in 1994 youth of color in Multnomah County, Oregon (Portland) were 31% more likely to be detained than Whites. By 2000, after the County worked with JDAI to reform its juvenile justice system, both youth of color and White youth were detained at identical—and lower—rates (22%).

JDAI realized similar success in Santa Cruz, California. In 1998 Latino youth represented nearly 64% of the youth detained in Santa Cruz County’s secure juvenile detention facility. After the implementation of JDAI strategies, the percentage of Latino youth detained in the County’s secure juvenile detention facility dropped to 53% in 1999, to 50% in 2000 and to 49.7% in 2001. While the factors for success will vary by jurisdiction, the strategies employed in Multnomah County and Santa Cruz may provide insight for other communities seeking reform (see Figure 2).

Figure 2: JDAI in Santa Cruz, California

Santa Cruz County's success resulted from a comprehensive set of strategies to reduce DMR, including:

1. *Embrace the reduction of DMR as a key organizational objective:* Santa Cruz County ensured departmental resources to reduce DMR. The County developed a cultural competency plan and appointed a cultural competency coordinator.
2. *Create a map of key decision points affecting decisions to arrest, book, detain, release and place juveniles:* The County kept a trend line for each decision point in the system and regularly reviewed the trend line to mark progress and identify problem areas.
3. *Develop and monitor objective criteria for the decisions made at each point:* The County developed a quantifiable set of risk factors free of criteria that may create racial bias. All stakeholders were included in the development of the objective criteria.
4. *Ensure that staff persons in key positions are culturally competent and bilingual:* The County established guidelines to ensure that staff have the skills and abilities to provide services to a diverse client population. Juvenile justice officials received cultural competency training.
5. *Eliminate barriers to family involvement:* The County surveyed youth and families to determine what barriers to service and family involvement exist.
6. *Create two or three tiers of community-based alternatives to detention that involve community-based organizations and parents:* The County agreed on a continuum of court-approved administrative sanctions that could be imposed prior to arrest for probation violations to prevent unnecessary detention. Outcomes were established and tracked by ethnicity.
7. *Develop a full continuum of treatment, supervision, and placement options:* The County kept data on length of stay in placements by ethnicity and adjusted programs to reduce disparities.

THE W. HAYWOOD BURNS INSTITUTE

Since 1999, the W. Haywood Burns Institute has provided technical assistance to local jurisdictions with the specific goal of reducing the over-representation of youth of color in the juvenile justice and child welfare systems. The Burns Institute model focuses on three phases of the justice process (arrest, detention, and disposition) and employs a variety of innovative strategies, which include mapping communities to learn about its resources and needs, and promoting alliances between public defenders, prosecutors, judges, police, probation, parole officers, community groups and youth.^{xvii} The Burns Institute has brought its model to Seattle, Kansas City, Phoenix, San Francisco, St. Louis, and four sites in Illinois.

Some of the principles used in the JDAI and Burns models are captured in the recommendations released in a report by The Sentencing Project, *The Crisis of the Young African American Male and the Criminal Justice System*. The report suggests that community partnerships with the justice system are key to reducing DMR. In addition, the report recommends that legislators should increase funding for indigent defense and that justice officials and community members should encourage the increased use of community-based diversion from the justice system.^{xviii}

IV. Role of Court Personnel in Decreasing DMR

All key personnel in the juvenile justice system—including judges, prosecutors, defenders, probation, and police—can play a role in decreasing DMR. These efforts are strongest when individuals work collectively and cooperatively. In seeking to reduce DMR, it is critical that system personnel build partnerships with one another to make the justice system more fair and effective for all youth.

Judges

As major decision-makers in the system, judges can play a large role in decreasing over-representation. As a starting point, judges should be educated on the issue. Trainings have been implemented in several states on DMR. For instance, Virginia’s “Juvenile Court Judges Committee of Disproportionate Minority Confinement” trains judges on DMR and distributes a bench book on the issue. In addition, the National Judicial College published a number of recommendations for judges in *A Judge's Guide to Juveniles Before the Adult Criminal Court*.^{xix}

Judges should know the detention trends in their jurisdictions. Understanding the context and composition of the detention population will aid decision-making. Judges can work with system officials to assess whether youth of color are over-represented. Moreover, many data collection systems are inadequate and do not properly account for Latino youth. Judges should ensure that data on Latinos is collected and disaggregated by ethnicity, and that youth are allowed to self-identify their race and ethnicity.

It is important that the justice system is fair for all youth. Judges should promote the use of objective risk assessment instruments by system personnel. Judges should also guard against over-charging by prosecution, and work to ensure that all children have meaningful access to counsel.

It is also critical that the system be culturally sensitive. Judges should encourage system officials to diversify the workforce to reflect the communities served by the system. Court personnel should be trained on cultural competency and enforce minimum standards for completion or certification with job-related consequences for failure to comply. Bilingual services should be provided to youth and their families.

Detention is often unnecessary and harmful. Judges should prioritize placing youth in alternatives to detention, and use secure detention only as a last resort. The court can work with

probation to identify appropriate programmatically and culturally-competent services based in the community.

DMR is a pressing issue for youth and communities. Judges should take a leadership role in national, state, and local organizations to ensure that the reduction of DMR remains an important goal. Judges can periodically review demographic and other data to examine the extent of DMR in the jurisdiction, and the efforts made to address the issue.

Prosecutors

Prosecutors play a critical role in the justice system in that they can decide whether to move forward with formal prosecution of youth. These decisions should be made in the context of DMR. Prosecutors can enhance their knowledge of DMR through trainings; the American Prosecutors Research Institute (APRI) provides training and technical assistance to prosecutors on this issue.

Prosecutors should ensure that their decisions are based on objective criteria. APRI's report, *Disproportionate Minority Confinement: Practical Solutions for Juvenile Justice Professionals*, states that "prosecutors may best contribute to the DMC solution by developing written, objective criteria for charging decisions, transfer decisions, and sentencing recommendations."^{xx} Prosecutors can also encourage court personnel to use objective risk assessment tools.

Prosecutors should seek alternatives to formal prosecution. They can work with other system officials to find appropriate culturally-competent community-based programs. In the spirit of cooperation, prosecutors should build partnerships with defenders, judges, and probation to identify effective alternatives—leaving detention as a last resort.

In 2001, the National District Attorneys Association passed a resolution to oppose "racial profiling or any other disparate treatment of any individual coming into contact with the criminal justice system based on race or ethnicity." Prosecutors should take a leadership role to ensure that the reduction of DMR remains an important goal.

Defenders

As advocates for youth in the system, defenders should seek to reduce DMR. Defenders can advocate for better data collection, more objective risk assessments, cultural sensitivity within the system, and the diversion of youth to community-based alternatives to detention.

Systems often do not keep adequate data on DMR and often do not disaggregate data by race and ethnicity. As a result, it is often difficult to assess the true extent of DMR—and in many jurisdictions where Latinos are categorized as "White," the number of youth of color in the system is actually undercounted. Defenders should encourage the courts and probation to keep rigorous DMR data and to regularly analyze the information. Defenders can work with system officials to ensure that data is collected at every stage of the system, and that the intake process allows youth to self-identify themselves by race and ethnicity.

Children must have access to competent legal counsel. Unfortunately, many youth waive counsel and are left to face the system alone—resulting in detention or other poor outcomes. Defenders should explain to their clients the importance of legal representation and encourage youth not to waive counsel.

Defenders should also ensure that their clients receive proper cultural and bilingual services. Defenders can call for courts, probation, and police to train their employees on cultural competency and to hire a more diverse workforce. Defenders should advocate for youth to be placed in culturally appropriate community-based alternatives to detention and for secure detention to be used only as a last resort. Defenders should seek to have complete educational, emotional and psychological assessments completed in order to make dispositional recommendations for appropriate interventions and placements.

Defenders are a critical resource for decreasing DMR and should use their knowledge and expertise to address over-representation. They should become and stay involved with national, state, and local organizations that can help reduce DMR.

Police

Police are the front gate to the court process. Decisions about where to target patrols can determine which youth ultimately enter the justice system. Police officers can help reduce DMR in several ways.

Police officers should receive training on DMR. Educating police about the disparate treatment of racial and ethnic minorities can improve their policies and practices. They should be educated on the importance of diverting youth from the system. Officers should be familiar with diversion programs and community-based alternatives to detention.

Police should keep data regarding their contact with youth—detailing where offenses occur in the community. Police should work with judges, defenders, prosecutors, and other community representatives to map the community to identify troubled areas. This partnership should seek to develop community assets in those areas.

Police officers should be culturally sensitive to youth and provide proper bilingual services. Police departments should diversify their workforces to reflect the communities which they serve, and train its officers on cultural competency.

V. Role of Local and State Bar Associations

Local and state bar associations can also help decrease DMR. Associations can encourage judges, prosecutors and defenders to pursue various strategies, including:

1. Raising awareness about racial disparities
 - Improving data collection systems
 - Training system players on DMR

2. Making the system more fair
 - Promoting objective risk assessment instruments
 - Ensuring competent counsel for youth
3. Making the system more culturally sensitive
 - Diversifying the system workforce
 - Providing bilingual services and cultural competency training
4. Diverting youth from detention
 - Promoting community-based alternatives to detention
 - Analyzing police contact with youth
5. Tapping into and building community resources
 - Mapping the community to identify assets and address deficiencies
 - Building partnerships with other system players
6. Keeping the reduction of DMR as an important goal
 - Taking a leadership role in national, state, and local organizations

Local and state bar associations should provide education and training to judges, prosecutors and defenders about DMR and methods for overcoming it in their communities. They should sponsor roundtable discussions for judges, prosecutors, defenders, police, probation, and other system officials to work through how to decrease DMR by improving decision-making and increasing access to community-based services for youth that do not need to be accessed through the court. Local and state bar associations can also organize pro-bono networks of attorneys to represent racial and ethnic minority youth who are ushered into the delinquency system.

VI. Conclusion

The ABA recognizes that juvenile court personnel face difficult decisions each day that impact the lives of children and the quality of justice in our nation's courts. They work to ensure justice while facing many other challenges in the court system. We believe that the proposed policy, focusing on proactive efforts to reduce disproportionality, will assist juvenile court personnel to improve the administration of a more fair and effective juvenile justice system.

Respectfully submitted,

Albert J. Kreiger, Chair
Criminal Justice Section
August 2003

ENDNOTES

ⁱ See, *ABA Policy and Procedure Handbook* (2001-2002).

ⁱⁱ See, *ABA Legislative and Governmental Priorities for the first session of the 108th Congress*.

ⁱⁱⁱ Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633, Section 223(a)(23)).

^{iv} *Disproportionate Confinement of Minority Juveniles in Secure Facilities: 1996 National Report* (Hamparian & Leiber, 1997).

^v Office of Juvenile Justice and Delinquency Prevention. *Juvenile Offenders and Victims: 1999 National Report*. September 1999.

^{vi} Under current law, states receiving funding under JJDP must “address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system.” See Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633, § 223(a)(23)).

^{vii} Poe-Yamagata, E. & Jones, M. *And Justice for Some*. 2000.

^{viii} Pope, Lovell, & Hsia. OJJDP Bulletin: *Disproportionate Minority Confinement: A Review of the Research Literature from 1989 through 2001*.

^{ix} For instance, data from the National Youth Survey found that at age 17, 36 percent of black males, 25 percent of white males, 18 percent of black females, and 10 percent of white females reported committing a serious violent offense. See *Serious Violent Offenders: Onset, Developmental Course, and Termination*, Elliot (1994) as cited in *Juvenile Crime, Juvenile Justice*, National Research Council (2001).

^x National Research Council. *Juvenile Crime, Juvenile Justice*. 2001.

^{xi} Hoytt, E., Schiraldi, V., Smith, B. & Zeidenberg, J. *Pathways to Juvenile Detention Reform: Reducing Racial Disparities in Juvenile Detention*. Volume 8.

^{xii} Poe-Yamagata, E. & Jones, M. *And Justice for Some*. 2000.

^{xiii} Villarruel, F. & Walker, N. *Donde Esta La Justicia?* 2002.

^{xiv} *Donde Esta La Justicia?* points out that data collection systems in many states “do not have a ‘Latino’ or ‘Hispanic’ ethnic category. They also fail to separate ethnicity from race, so that Latino/a youth often are counted as White.” See, *Donde Esta La Justicia?* Villarruel, F. & Walker, N. (2002).

^{xv} <http://www.aecf.org/initiatives/jdai/>

^{xvi} JDAI recommends ten strategies to counteract DMR:

- (1) Formulate a vision and related policy goals for reducing DMR.
- (2) Create structures (e.g. task forces) charged with sustaining a focus on DMR.
- (3) Collect data and conduct research to document where disparities occur.
- (4) Build coalitions and alliances with communities and people of color.
- (5) Diversify the composition of the system’s work force.
- (6) Diversify the service delivery system by contracting with organizations located in communities of color and managed by people of color.
- (7) Provide cultural and racial sensitivity training for staff at all levels of every agency of the system.

-
- (8) Minimize opportunities for discriminatory decisions by creating objective instruments and guidelines free of racial bias.
 - (9) Improve defense representation to increase advocacy for youth of color.
 - (10) Change the policies and practices of other systems (e.g. mental health, child welfare) to prevent “dumping” into secure detention youth who would be better served by those systems.

^{xvii} <http://www.burnsinstitute.org/home.html>

^{xviii} Sentencing Project. *The Crisis of the Young African American Male and the Criminal Justice System*. <http://www.sentencingproject.org/pubs/civilrights.pdf>

^{xix} National Judicial College. *A Judge's Guide to Juveniles Before the Adult Criminal Court*. www.judges.org.

^{xx} American Prosecutors Research Institute. *Disproportionate Minority Confinement: Practical Solutions for Juvenile Justice Professionals*. <http://www.ndaa.org/apri/index.html>

GENERAL INFORMATION FORM

To Be Appended to Reports with Recommendations
(Please refer to instructions for completing this form.)

Submitting Entity: Criminal Justice Section

Submitted By: Albert J. Kreiger

1. Summary of Recommendation(s).
The recommendation asks the ABA to adopt policy that urges lawyers and judges to address overrepresentation and disparate treatment of racial and ethnic minority youth in the justice system. The recommendation encourages lawyers, judges and law enforcement to bolster public confidence in the justice system by ensuring the fair treatment of all youth.
2. Approval by Submitting Entity.
The recommendation was voted on and approved by the Criminal Justice Section Council at their spring meeting in San Antonio, TX on April 12, 2003.
3. Has this or a similar recommendation been submitted to the House or Board previously?
This recommendation has not previously been submitted to the House or Board, nor has a similar recommendation.
4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?
Current ABA policy does not address disparate treatment of racial and ethnic minority youth in the justice system. Current policies addressing race are aimed at increasing diversity in the legal community and opposing racial profiling. Adoption of this policy would affect current existing ABA policy to the extent that it urges court personnel to take an active role in examining their decision-making and its impact on the treatment of racial and ethnic minority youth.
5. What urgency exists which requires action at this meeting of the House?
The overrepresentation and disparate treatment of racial and ethnic minority youth must be addressed. Justice personnel (lawyers, judges, law enforcement) play a critical role as decision-makers and enacting ABA policy will be a call to action as well as an

opportunity for the ABA to assist jurisdiction as they look for appropriate means to ensure justice for youth.

6. Status of Legislation. (If applicable.)

Currently, there is no pending legislation on this issue.

7. Cost to the Association. (Both direct and indirect costs.)

Adoption of the resolution would not result in direct costs to the Association. The only anticipated costs would be indirect costs that might be attributable to lobbying to have the recommendation implemented. These indirect costs cannot be estimated, but should be negligible since lobbying efforts would be conducted by existing staff members who are already budgeted to lobby for Association policies.

8. Disclosure of Interest. (If applicable.)

No known conflict of interest exists.

9. Referrals.

The recommendation and report have been circulated to the following Association entities for co-sponsorship:

Commission on Racial and Ethnic Diversity in the Profession
Young Lawyers Division
Section of Individual Rights and Responsibilities
Section of Litigation
State and Local Government Law
Family Law
Commission on Women in the Profession
Commission on Mental and Physical Disability Law
Government and Public Sector Lawyers Division
Steering Committee on the Unmet Legal Needs of Children
Coordinating Council of the Justice Center
Coordinating Committee on Immigration Law
Center for Human Rights
Commission on Homelessness and Poverty
Coalition for Justice
Standing Committee on Substance Abuse
Standing Committee on Public Education
Standing Committee on Pro Bono and Public Service
Standing Committee on Legal Aid and Indigent Defendants

The recommendation has also been circulated to:

Judicial Division
Standing Committee on Bar Activities and Services

10. Contact Person. (Prior to the meeting.)

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11. Contact Person. (Who will present the report to the House.)

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