

**Commission on Racial and Ethnic Disparity
in the Criminal Justice System**

**Annual Report and Recommendations
2003-2004**

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Section 1
INTRODUCTION

- A. The Legislative Charge
- B. Definitions and Distinctions
- C. Summary of Commission Activities in 2003-2004
- D. Presentation Format of Report and Research Results

1.A.
THE LEGISLATIVE CHARGE

In 2000, through the enactment of Public Act 00-154, the Connecticut General Assembly created the Commission on Racial and Ethnic Disparity in the Criminal Justice System to compile research about and make recommendations addressing the racial and ethnic disparity in Connecticut's criminal justice and juvenile justice systems. Research and recommendations in this report are responsive to the Commission's charge and build on the research findings and recommendations of the Commission's first report, published in 2002.

The enabling legislation provides that the Commission shall focus on three areas:

Adult Criminal Justice System

1. Develop and recommend policies for reducing the number of African-Americans and Latinos comprising the pretrial and sentenced population of correctional facilities and reducing the number of African-Americans and Latinos who are victimized by crime;
2. Examine the impact of statutory provisions and current administrative policies on racial and ethnic disparity in the criminal justice system and recommend legislation to the Governor and the General Assembly to reduce such disparity;
3. Research and gather relevant statistical data and other information concerning the impact of disparate treatment of African-Americans and Latinos in the criminal justice system;
4. Develop and recommend a training program for personnel in agencies involved in the criminal justice system concerning the impact of disparate treatment of African-Americans and Latinos;
5. Research and examine the issue of the use of guidelines by courts when sentencing criminal defendants and recommend whether the General Assembly should create a sentencing guidelines commission to establish sentencing guidelines for state courts;
6. Examine the implementation of policies and procedures that are consistent with policies of the American Bar Association intended to ensure that death penalty cases are administered fairly and impartially in accordance with due process, to minimize the risk that innocent persons may be executed and to eliminate discrimination in capital sentencing on the basis of the race of either the victim or the defendant; and
7. Annually prepare and distribute a comprehensive plan to reduce racial and ethnic disparity in the criminal justice system without affecting public safety.

Juvenile Justice System

1. Develop and recommend policies and interventions to reduce the number of African-Americans and Latinos in the juvenile justice system;
2. Analyze the key stages in the juvenile justice system to determine if any stage disproportionately affects racial or ethnic minorities including the decision to arrest a juvenile, the decision to turn a juvenile over to a detention center, the decision to non-judicially dispose of the case or to file a petition of delinquency, and the decision to resolve the case by placement on probation, placement in a residential facility or placement at Long Lane School or the Connecticut Juvenile Training School;
3. Annually prepare and distribute a juvenile justice plan having as its goal the reduction of the number of African-Americans and Latinos in the juvenile justice system, which plan shall include the development of standard risk assessment policies and a system of impartial review, culturally appropriate diversion programs for minority juveniles accused of nonviolent felonies, intensive in-home services to families of pretrial delinquents and youth on probation, school programs for juveniles being transferred from detention centers, Long Lane School or the Connecticut Juvenile Training School, the recruitment of minority employees to serve at all levels of the juvenile justice system, the utilization of minority juvenile specialists to guide minority juvenile offenders and their families through the juvenile justice system, and community service options in lieu of detention for juveniles arrested for nonserious offenses; and
4. Develop a curriculum for training of all employees at all levels of the juvenile justice system on issues of cultural competency and strategies to address disproportionate minority confinement.

Annual Report

1. Submit an annual report to the Governor and the General Assembly concerning:
 - The number of African-Americans and Latinos comprising the pretrial and sentenced population of correctional facilities;
 - The progress being made toward reducing the number of African-Americans and Latinos comprising the pretrial and sentenced population of correctional facilities;
 - The adequacy of legal representation for indigent defendants;
 - The adequacy of the number of residential and nonresidential treatment slots available for African-Americans and Latinos;
 - The adequacy of the number of court interpreters; and
 - Such other information as the commission deems appropriate.

1.B. DEFINITIONS AND DISTINCTIONS

What Does Racial and Ethnic Disparity Mean?

As in its 2001-2002 report, the Commission feel it critical at the outset to clarify the definitions and distinctions that the terms disparity, overrepresentation, underrepresentation, and discrimination have within the context of the criminal justice system. Too often these terms are used interchangeably and are misunderstood. Misuse of these terms can fuel emotionally and politically charged dialogue in negative ways.

- **Disparity** means the difference between the ratio of a cognizable group in one population when compared to the ratio of that same group in another population. For example, if African-Americans are arrested 10 percent of the time but account for 40 percent of those people taken into custody, that is a disparity. Disparity can be in the form of either an overrepresentation or underrepresentation of the cognizable group being measured.
- **Overrepresentation** refers to a situation in which a larger proportion of a cognizable group is present at various stages within the justice system (such as intake, detention, adjudication, and disposition) than would be expected as a result of equally fair treatment of that same group based on their proportion in the population that is being used as a basis of comparison.
- **Underrepresentation** is the antithesis of overrepresentation. This means that a smaller proportion of a cognizable group is present at various stages within the justice system (such as intake, detention, adjudication, and disposition) than would be expected as a result of equally fair treatment of that same group based on their proportion in the population that is being used as a basis of comparison.
- **Discrimination** is the result of disparate treatment - that is, if and when one cognizable group is treated differently than others for invalid reasons such as gender, racial, and/or ethnic status.

Neither overrepresentation, underrepresentation nor disparity necessarily imply discrimination. A goal of the Commission is to identify disparities and understand them in order to recommend changes needed when disparity appears to be caused by discrimination in the criminal justice system - *e.g.*, if minority clients face higher probabilities of being arrested by the police, referred to court intake, held in short-term detention, petitioned for formal processing, adjudicated, and/or confined in a secure facility.

1.C.
SUMMARY OF COMMISSION ACTIVITIES IN 2003-2004

Context: The Commission on Racial and Ethnic Disparity in the Criminal Justice System was given the task of conducting a comprehensive and coordinated study of all the components of the state's criminal and juvenile justice system to determine whether racial and ethnic minorities have differential experiences, treatment and outcomes. National and state statistics on the racial and ethnic makeup of court-involved men, women, and young people - from arrest through court processing, confinement, and community supervision - paint a picture that raises fundamental and difficult questions for those who administer, design, and implement state justice systems. The Commission recognizes that addressing these issues are needed in order to track disparities, inform policy making, and ensure the continued credibility of the justice system.

Commission activities: In addition to monthly meetings of the full Commission, the six subcommittees have met on an ongoing basis:

- Investigation and Arrest
- Pretrial
- Trial
- Post-Conviction
- Juvenile
- Face of the System

These subcommittees were designed to address the full scope of Connecticut's adult criminal and juvenile justice systems, and were charged to provide research and to develop and recommend policies and interventions that ensure fair and equitable treatment of all racial and ethnic groups in those systems. As the Commission has progressed in its work, and as several major research studies have been completed, discussion has taken place about reorganizing the committee structure to best meet the ongoing needs of its work.

1.D.
PRESENTATION FORMAT OF REPORT AND RESEARCH RESULTS

In accordance with its charge, the Commission has built on its substantial research efforts reported in the 2001-2002 Annual Report and has undertaken several new research initiatives including: an updated data collection on the racial/ethnic profile of Connecticut's criminal justice system; an analysis of demographic data related to the impact of the criminal justice system on minority communities in Connecticut; a survey of individual police departments regarding alternative to arrest procedures; a collection and analysis of pretrial, jury and sentencing data; and a review of relevant reports from related state agencies and commissions, including the state commission on the death penalty.

The primary focus of this report is two-fold: i) to outline the findings of the Commission's 2003-2004 research activities which have built upon, expanded and refined the studies and recommendations of the Commission's 2001-2002 Report; and ii) to outline the next steps that are necessary to continue this ambitious process.

Section 2

RESEARCH ACTIVITIES AND FINDINGS

- A. Overview of Connecticut Criminal Justice Data
- B. Overview of Methodology
- C. Research Analyses
 - 1. Police
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- D. Population Studies
 - 1. Overview of Connecticut Demographics
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- E. Non-Commissioned Studies
 - 1. Commission on the Death Penalty

Section 2.A.
OVERVIEW OF CONNECTICUT CRIMINAL JUSTICE DATA

African Americans and Latinos/Hispanics in Connecticut are disproportionately involved in the criminal justice system according to analysis of data from the U.S. Department of Justice, the U.S. Census Bureau, and the Connecticut Department of Correction (DOC):

- One in eleven African American men in the state between the ages of 18 and 64 was in prison or in jail in 2000.¹
- In 2000, the incarceration rate for African American men (9 percent) was 18 times higher than the incarceration rate for non-Hispanic white men.²
- Caucasians have a lower rate of incarceration in Connecticut than African Americans or Latinos/Hispanics. Only 190 Caucasians per 100,000 of the population are in prison. This rate is also significantly below the national average of 366 Caucasians in prison per 100,000 of the population.³
- African Americans have an incarceration rate in Connecticut that is above the national average. Connecticut incarcerates 2,427 per 100,000 African American people.⁴
- Connecticut incarcerates 1,439 per 100,000 Latinos/Hispanics compared to the national average of 759 per 100,000 of the population.⁵
- Connecticut ranks the highest in the United States in its level of disparity in the rates of incarceration of Whites, Blacks, and Hispanics.⁶
- Almost 50 percent of Connecticut's total male prison population in 2000 came from the state's three largest cities – Hartford, New Haven, and Bridgeport.

¹ United States Census 2000.

² Id.

³ Bureau of Justice Statistics, Prison and Jail Inmates at Midyear 2001, (May 2002) p. 13, table 16.

⁴ Id.

⁵ Id.

⁶ Blacks here are non-Hispanic Blacks.

Section 2.B.

OVERVIEW OF METHODOLOGY

To begin to answer the Commission's questions about possible racial/ethnic disparity, data were obtained from several sources. These included data describing Connecticut's population from the Census, a Commission-initiated survey of police arrest practices and use of alternatives to arrest, and relevant, recently completed studies (bail, juvenile, traffic stops, legislative review, etc). In addition, data related to criminal case processing were requested and obtained specifically for the Commission (pre-trial, jury and sentencing). These data were all provided in electronic format and included the following sources:

- **Cases heard in court that were disposed in 2001** (from the "Criminal Motor Vehicle System," or CRMVS, records). Data elements in this file include docket number (which identifies court location as well), dates of arrest and disposition, charges at arrest (statutes and seriousness), charges at disposition (statutes and seriousness), defendant demographics (date of birth, gender and race/ethnicity), verdict, disposition, and length of sentences to incarceration or probation. These records were organized so that individual defendants were included in the file only once (based on social security number) and the case with the most serious disposition (and its associated charges and other information) was selected for analysis. New variables were created to indicate the number of cases an individual had disposed in 2001, the number of charges in the case used for analysis, the statutes associated with mandatory minimum sentences, and cases with a "substitute of information" before disposition. For defendants with multiple cases, where race/ethnicity was recorded inconsistently across cases and at least one case identified the defendant as Hispanic, those with Spanish surnames who lived in towns with a majority of residents self-identifying as Hispanic were coded as Hispanic.
- **Cases seen by bail commissioners.** These were merged with the CRMVS file, based on the docket number of the selected case. "Bail file" data were available for 24.8 percent of the total CRMVS file. Data elements in the bail file include those related to present charges and court location, zip code for the defendant's residence, all the elements (related to the present charges, aspects of criminal history, and defendants' characteristics) that are included in calculations of risk of failure to appear in court (although not available for every case, since data entry was not mandatory for every element), the total points obtained related to risk (**though not accurate in many cases as a default score was entered when individual elements were not recorded**), release recommendations and orders (set by police at arrest, set by bail commissioners at arrest, recommended to the court by bail commissioners at arraignment, ordered by court at arraignment), release conditions ordered at arraignment (e.g. report to bail commissioner or AIC, pursue specific pretrial interventions), and bond amounts recommended and ordered. New variables were created to reflect categories of court location (four major urban courts, six largest courts) and defendants' town of residence (towns in the top 16 for populations of African Americans or Latinos/Hispanics).
- **Data from the U.S. Census.** These data were merged with the CRMVS and bail file based on the zip code provided in the bail file. 74.5 percent of the cases with bail file information had zip code information. Summary data from the Census were obtained in an effort to investigate poverty and social class and included the following information about the zip codes in which the individual defendants reside:
 - Percentage of people living below the official poverty line
 - Median household income

- Median family income
- Median personal income
- Percentage of housing with five or more units
- Percentage of housing that is single family units
- The median year that housing was built
- Percentage of housing that is owner-occupied
- Median number of rooms per housing unit

Analysis of these variables by race/ethnicity showed that African American and Latino/Hispanic defendants were significantly more likely than Caucasian defendants to live in zip codes with greater percentages of residents in poverty as measured in these ways. However, since these data describe characteristics of zip codes and not necessarily the study's individual defendants, they could not be included as controls in multivariate analyses of sentencing or other court process issues. This is unfortunate, since it would be desirable to be able to disentangle potential disparities attributable to social class from those attributable to race or ethnicity.

A Note on 'Statistical Significance'

Throughout this report the reader may notice the term 'statistical significance' or the term 'significant' used with regard to a statistical analysis. Tests of statistical significance are used, among other reasons, to distinguish between random or chance processes and purposive processes. If a relationship is characterized in this report as "statistically significant," it means that the finding could occur by chance less than 5% of the time. For multivariate analyses, the research technique used in much of the pre-trial and sentencing section, the results could occur by chance less than 0.1% of the time.

Section 2.C.
RESEARCH ANALYSES

In 2003 the Commission undertook four studies to garner further knowledge regarding how actions taken in the pre-arrest, pre-trial, trial and sentencing phases contribute to the proportion of African Americans and Latinos/Hispanics comprising the pretrial and sentenced population of correctional facilities. These four studies -- a survey of police departments regarding use of alternatives to arrest, an analysis of pretrial data, an analysis of juries, and an analysis of sentencing data -- provide insight into points in the system where disparity can occur. The following studies respond in particular to the charge in *Public Act 00-154 (b)(1)*:

“Develop and recommend policies for reducing the number of African-Americans and Latinos comprising the pretrial and sentenced population of correctional facilities and [for] reducing the number of African-Americans and Latinos who are victimized by crime.”

2.C.1.	Police
2.C.2.	Pre-Trial
2.C.3.	Jury
2.C.4.	Sentencing

Section 2.C.1.
POLICE SURVEY

Based on a 2002 recommendation of the Investigation and Arrest Subcommittee, the Commission undertook a survey of state police departments to determine the impact that strategies such as alternatives to arrest have on diverting people from the criminal and juvenile justice system. Although the response was better than most mailed surveys obtain, in some police departments there was only one respondent, so information may not be representative.

a. OVERVIEW OF FINDINGS

The results of the survey, to which 78 of 102 state jurisdictions responded, showed that, while a majority of departments utilized alternatives to arrest for juveniles, there was varying departmental acceptance of alternatives for adults.

- Officers and troopers often used alternative options when they were available in cases involving juveniles and minor offenses.
- Over 60 percent said that alternative programs for first time juvenile offenders would be used “often” or “very often” if they were available.

- Survey respondents were substantially less willing to entertain alternatives to arrest when they had probable cause in cases involving adults. Less than 20 percent of the officers thought alternative programs for adults would be used “often” or “very often” by their staff.
- Several departments receptive to adult alternatives reported using alternatives for cases with criteria similar to the types of cases handled by community courts (“quality of life crimes”). For these departments, the criteria for deferring adults and juveniles to alternatives were similar.

Youth: For youth, by far the most common alternative was release to parents. Referral to a juvenile review board and written warnings were the second and third most frequently employed alternatives. Officers considered criminal history, apology or remorse, the type of offense, and the reputation of the parents when determining whether to arrest. The majority of departments reported that they would often or very often use early intervention for first-time juvenile offenders if it were available.

Adults: Survey respondents had dramatically different approaches to alternatives to arrest for adults. There was notably less enthusiasm for early intervention programs for first time offending adults than there was for similar programs for juveniles. Many jurisdictions responded that they would use an intervention program only occasionally or under particular conditions. Several departments spoke positively about an officer’s discretion to use alternatives to arrest as a positive deterrent. Yet another respondent commented that most crimes should be sent to court and that judges, not cops on the street, should make determinations on alternatives.

Victim input: Victim preference was the most important consideration in determining whether to use an alternative to arrest for adults. The majority of departments also cited the nature of the offense and criminal history as factors in using alternatives to arrest.

b. FULL STUDY

Methodology/Description of the Sample

Surveys were mailed to 102 jurisdictions -- including municipal departments, state police barracks, and campus departments. 54 responses were obtained from the first request. A second request was sent via E-mail, and yielded an additional (unduplicated) 24 responses, for a combined total of 78 (76.5 percent).

Type of Jurisdiction	Frequency	Percent
City	19	24.4
Town	54	69.2
State, region	2	2.6
University campus	3	3.8
Total	78	100.0

Population of Jurisdiction	Frequency	Percent
Up to 15,000	21	26.9
15,001 - 25,000	22	28.2
25,001 - 50,000	19	24.4
50,001 - 100,000	10	12.8
100,000 - 150,000	4	5.1
State, regional	2	2.6
Total	78	100.0

Number of Officers/Troopers	Frequency	Percent
Up to 15	9	12.0
16 – 30	10	13.3
31 – 50	28	37.3
51 – 75	9	12.0
Over 75	19	25.3
Total	75	100.0
Missing	3	
	78	

JUVENILES

Alternatives to arrest available for juveniles

Alternatives to referral to juvenile court (arrest) available in response to a criminal complaint with probable cause in the jurisdiction included:

- Release to parents – 85.6%
- Verbal warning – 79.5%
- Referral to a juvenile review board – 53.8%
- Referral to a youth service bureau – 38.5%
- Referral to other program – 32.1%

(20 respondents noted a particular type of program. The most common was a school program, noted by five respondents. Two reported referrals were to child guidance centers, another referred to social workers, another mentioned drug treatment and other therapy. Two were referred to community services. Others noted boys and girls’ clubs, Junior Republic, dispute settlement center, CDCP, meeting with youth officer, regional services, “fire hawks”, and in-house diversion program.)

Alternatives used most commonly (maximum of two choices possible).

- Release to parents – 71.8%
- Referral to a juvenile review board – 50%
- Verbal warning – 32.1%
- Referral to a youth service bureau – 12.8%
- Referral to other program – 12.8%

Considerations in determining the use of alternatives to juvenile court referral.

- No prior history of crime – 84.6%
- Apology or remorse – 64.1%
- Offenses involved – 61.5%
- Parents are known as caring and involved – 53.8%
- Preference of victim(s) involved – 46.2%
- Juvenile is young – 44.9%
- Preference of witness(es) – 3.8%
- Juvenile was acting alone – 2.6%
- Juvenile is female – 0.0%

Forty-two respondents described the offenses that might lead to use of an alternative to juvenile court referral. The most common response was that only “minor” offenses would be considered; some said only misdemeanors. Status offenses, Breach of Peace (BOP)/disorderly, vandalism, trespassing, minor larceny, and minor criminal mischief were the most frequently specified offenses. One respondent was

very specific about the circumstances, stating that the juvenile “must not be a serious juvenile offender (SJO), must admit guilt, and parents must agree to a juvenile review board (JRB).”

Population in the jurisdiction was related to some of the considerations. For example, the juvenile’s remorse and victim preference were not a consideration in the four largest jurisdictions or for those covering the state or a region. Lack of prior criminal involvement was less likely to be a consideration there as well. The larger jurisdictions were also less likely to report that parents’ reputation was a consideration.

Use of alternatives to juvenile court in the past year.

Following are the number of referrals made as alternatives to juvenile court. Nine respondents reported that the number of such referrals was not known.

Number of Referrals to Juvenile Alternatives in Past Year

	Frequency	Percent
None	1	1.4
1 – 5	11	15.9
6 – 10	9	13.0
11 – 20	13	18.8
21 – 40	12	17.4
41 – 100	12	17.4
Over 100	11	15.9
Total	69	100.0
Unknown	9	
	78	

Number of Juvenile Arrests in Past Year

	Frequency	Percent
Up to 10	9	11.7
11 – 25	13	16.9
26 – 50	15	19.5
51 – 100	12	15.6
101 – 250	15	19.5
Over 250	13	16.9
Total	77	100.0
Missing	1	
	78	

If early interventions for 1st time juvenile offenders were available, how often would they be used

	Frequency	Percent
Very often	10	13.7
Often	34	46.6
Occasionally	16	21.9
Almost never	2	2.7
Only under particular conditions	11	15.1
Total	73	100.0
Missing	5	
	78	

ADULT

Alternatives to arrest available for adults

- Verbal warning – 67.9%
- Referral to program for adults – 10.3%

Three respondents noted that no alternative programs are available for these situations. Others had a variety of comments. These included the following:

- Arrest is mandatory in domestic violence cases when there is probable cause
- Restitution is arranged if the victim agrees and withdraws the complaint
- Cases can be sent to community court
- Cases are referred to the dispute settlement center
- There's no arrest if the victim makes that request in writing
- There are no alternatives unless the victim withdraws the complaint
- A written warning may be given for a minor offense or violation

Considerations used for determining alternatives to arrest for adults

- The preference of any victim(s) involved – 57.7%
- The offenses involved – 44.9%
- (Of 24 respondents who provided a description of these offenses, half said “minor;” two said misdemeanors; three specified disorderly conduct; two specified larceny; two identified trespass along with “minor fish and game type offenses” and “breach of peace;” one stated offenses “within the scope of the community court program;” one specified “verbal disputes;” one specified “neighborhood problems, minor larceny, vandalism;” and one said “breach of peace, minor substance possession, association, criminal mischief.”)
- The adult has no prior history of crime – 43.6%
- Adult's apology or remorse – 21.8%
- Preference of any witnesses – 3.8%
- The adult was acting alone – 2.6%

If an early intervention program for 1st time offending adults became available, how often would it be used?

	Frequency	Percent
Very often	3	4.0
Often	10	13.3
Occasionally	31	41.3
Almost never	10	13.3
Only under particular conditions	21	28.0
Total	75	100.0
Missing	3	
	78	

“Particular conditions” explained:

- Court order
- Depends on type of violation
- Don't need or want redundant programs
- For more serious misdemeanors
- Minor offenses, no criminal history
- Misdemeanor offenses
- Must 1st consult w/ court
- Offense, age, no history, willing to cooperate w/ a program
- Per set policy guidelines and state's attorney direction
- Very minor offenses
- Would depend on what the intervention service consisted of

General officer comments: Other comments about officers' use of alternatives to arrest when there is a complaint w/ probable cause include (in their original language):

- Adult offenders are best handled thru court system. Alternative sanctions such as review board are more effective when juvenile's failure is taken seriously by juvenile authorities
- Alternative program should have penalty for failure to complete or fully participate in
- Alternatives to arrests for adults should never be considered unless approved by the victim of the crime. Victims must always be placed first; to do otherwise is an abomination of justice
- At the moment officers in the field have limited options available to them in regards to arrests with probable cause
- Common theme is what guidelines to set to assist officers in the correct process
- Could be more alts for adults for minor infractions of the law
- For juveniles our model is vastly different than other police departments in that youth officers are given authority to direct cases.
- If more options were available it would give the officers more discretion and discretion is a useful tool
- Most crime should be sent to court. Judge should make a decision not a cop on the street, court has alts
- Officers' discretion when used properly can be a positive deterrent to aberrant behavior
- Officers are always encouraged to use discretion and weigh all the considerations when dealing with the public

- Officers may give verbal warning at their discretion which is documented or a dept written warning/contact to an offender who has no prior history or contact w/ this dept and offense committed is minor
- Officers use discretion when deciding whether to make an arrest, seriousness of offense plays a major role
- Participation in diversion programs is or would be contingent on strict guidelines formulated with the full cooperation and participation of the state's atty. Officers discretion would be minimal
- Possible establishment of a regional JRB. If in place juveniles from bordering communities would benefit
- Should be uniformly applied w/ specific guidelines for use
- The alternative to arrest for adults would be a difficult program to institute. We would have court, victim, general public conception issues to resolve
- We do have access to [adult program], but this is a post arrest alternative. Interested in alt programs for <18 still in HS.
- The JRB works well when the juvenile and family meet the criteria (seriousness of offense/family willing to coop). Out of the 25 referrals to the JRB in 02, only 5 have continued to be involved in trouble (school, parents, drug use etc).
- The problem w/ alternative programs is that there is no recourse for failure to participate. When the courts direct defendants into alt programs failure to participate will result in a resumption of prosecution
- There should be consequences if youths fail the program
- We have fought, to no avail, for funding for a juvenile review board as an alt to juvenile arrest
- When dealing w/ juvenile issues we attempt to handle the incident in low-key fashion, unless there is indication that this won't work and offense will be repeated
- Whichever is less work, in many cases, is what several officers will gravitate to.

Section 2.C.2.

PRE-TRIAL

In the 2002-2003 session, the Commission identified several questions for research regarding potential occurrences of disparity at decision points in pre-trial procedure. Using Criminal Motor Vehicle System (CRMVS) records and data collected and entered from interviews conducted by bail commissioners and recorded on the bail risk instrument, the Justice Education Center analyzed data for all cases disposed in 2001 for defendants arrested in 2000 or 2001.⁷

The findings in this section, as in the others related to court processes, must be read with caveats that:

- (1) The Commission did not have access to complete prior criminal history information. The reoccurrence of the variable ‘number of cases disposed in 2001’ as a statistically significant factor in the majority of the analyses in this chapter indicates the importance of criminal history for bail commissioner recommendations;
- (2) Because data entry in several fields was not mandatory for bail commissioners, the Commission’s analysis was severely hampered. When there was insufficient or inconsistently entered data on specific variables, such as total bail score or certain individual factors, these variables were not included in analyses; and
- (3) In 2003, the Judicial Department modified the bail risk instrument, so that some of the non-criminal factors mentioned here are no longer relevant to determining an offender’s score.

a. OVERVIEW OF FINDINGS

The study of pre-trial data provided the following findings:

Overall

- Nearly 25 percent of defendants were interviewed by a bail commissioner before arraignment.
- Seriousness of charge (A felony, B felony, etc.) was the single most powerful predictor of bail commissioner involvement. It was six times more powerful than the next significant indicator, which was number of cases.
- Race/ethnicity was the third most powerful predictor of bail commissioner involvement out of the six available predictors for analysis. Bail commissioners were more likely to see African Americans and Latino/Hispanic defendants, even when charge severity, number of cases, gender, age, and number of charges were held constant.
- When all charges (felonies and misdemeanors) were considered, Caucasians were approximately twice as likely as African Americans or Latinos/Hispanics to be released with a written or conditional promise to appear (WPTA or CPTA). When severity of charge was considered, the difference was less apparent.

⁷ All analyses reported here are based on the reclassification of Hispanics described in section 2.D.2.

Bail instrument

- **The severity of the most serious charge at arrest (A felony, B felony, etc.)** was the most powerful predictor of a promise to appear (as opposed to financial release order). Multivariate analysis showed, however, that race/ethnicity was also a statistically significant predictor,⁸ and was the fifth strongest predictor of the eight variables available for analysis of release decisions.
- Significant differences across race/ethnicity were found for several individual items on the bail instrument, including many that measured non-criminal factors. This analysis was hampered, however, by missing data, attributable to the fact that many individual data fields were not required for data entry. Moreover, some of the non-criminal factors have been eliminated from the revised bail form and thus will no longer be measured.

Drug offenses

- Analyses restricted to all unclassified felony drug offenses (both possession and sale) found that bail commissioners were significantly more likely to recommend, and courts to order, financial release for African Americans and Latinos/Hispanics than for Caucasians. Since analysis of a common specific felony drug possession charge found little difference in bail commissioners' recommendations across race and ethnicity, more individual analyses of other most common felony drug charges need to be conducted to fully understand the issues involved with responses to drug charges.
- Caucasians were more likely than African Americans or Latinos/Hispanics to have conditions attached to their release in drug cases. Their conditions were more likely to involve drug treatment (both inpatient and outpatient), drug evaluation, and court supervision.

Four major urban courts

- Comparisons between the four major urban courts (Bridgeport, Hartford, New Haven and Waterbury) and the others in the state found greater likelihood of court orders for financial forms of pre-trial release in the urban courts.
- Differences in court orders across race/ethnicity were greater in the four urban courts than in the other courts. Caucasians were granted non-financial release at nearly twice the rate of African Americans and Latinos/Hispanics for all cases, both felonies and misdemeanors.

⁸ For an explanation of “statistical significance” see section 2.B, Methodology, *supra*.

b. FULL STUDY

In 2002 the Commission posed a series of questions regarding potential occurrences of disparity in pretrial procedures, particularly with regard to the use of the bail system. The questions presented by the Commissioners are indicated by italics. The subsequent findings immediately follow the related question.

Holding multiple factors constant, are there differences across race and ethnicity in defendants’ involvement in the bail system? Are there differences when defendants charged with the same offenses are compared?

Based on analysis of data for all cases (felonies and misdemeanors) disposed in 2001, for defendants arrested in 2000 or 2001, the table below shows that African Americans were most likely to see a bail commissioner and that they and Latinos/Hispanics were more likely than Caucasians to see a bail commissioner. This means that they were less able to meet the release conditions (bond) set by police at the time of arrest.

Saw bail commissioner?

	Race/Ethnicity			Total
	African American	Caucasian	Latino/Hispanic	
No	63.3%	81.3%	71.2%	75.2%
Yes	36.7%	18.7%	28.8%	24.8%
	100.0%	100.0%	100.0%	100.0%
Total #	22135	53546	16466	92147

Multivariate analysis indicated that, with available data, bail commissioner involvement could be predicted with 79.3 percent accuracy. The following variables, listed in order, were significantly associated with a prediction of involvement:

- Charge severity (this was nearly six times more powerful than the next variable)
- Number of cases disposed in 2001
- Race/ethnicity (not Caucasian)
- Male gender
- Older age
- Number of charges in the present case

Holding multiple factors constant, are there differences across race and ethnicity in amount of bond set by police? By Bail Commissioners? In Bail Commissioners’ recommendations to the court? In court determination of bond?

The available data could not definitively answer this question because the amounts were not entered into the file consistently—probably due to different entry of decimals. For example, the figures shown for “police bond amount” ranged from 50 to 500000000. There were 96 cases with amounts of 250000000 or above. If we assume that two decimal places were added, then the highest figure would be \$5 million. However, that would mean that there were 235 cases where the bond amount was \$5 or less, including eight cases with bond of 50 cents or \$1. Since we could not assume which entries had two decimal places included and which did not, we could not use these data to assess differences in bond amount.

Holding multiple factors constant, are there differences across race and ethnicity in total scores on the bail risk assessment instrument? Are there significant differences by race/ethnicity in any individual scoring factor on the bail form? In particular, are there any significant differences on items that measure non-criminal factors?

Because total scores were not uniformly entered electronically they could not be used for analysis. Likewise, the extent of difference across race/ethnicity in any individual factor on the bail form can not be determined due to sporadic recording of data.

Non-criminal factors: Significant differences by race/ethnicity were found, however, for many individual non-criminal factors measured on the form and included in the total score, as shown in the following list where differences are significant statistically:

(Reminder: In 2003, the Judicial Department modified the bail risk instrument so that some of the non-criminal factors mentioned here are no longer relevant to determination of an offender's score. Whether or not a measure has been retained in the new bail risk instrument is indicated in a parenthetical.)

(Measures retained in new bail risk instrument)

- **Marital status:** African Americans were least likely to be married (9.6 percent, compared to 10.2 percent of Latinos/Hispanics and 13.8 percent of Caucasians) and most likely to be single (78.4 percent, compared to 75.7 percent of Latinos/Hispanics and 59.3 percent of Caucasians).
- **Verifiable reference:** 80.4 percent of African Americans had one verifiable reference compared to 76.7 percent of Latinos/Hispanics and 78.7 percent of Caucasians. (Data not entered for 34.9 percent of defendants.)
- **Education:** 14.5 percent of African Americans had more than a high school diploma, compared to 6.8 percent of Latinos/Hispanics and 20.8 percent of Caucasians. (Data not entered for 27.6 percent of defendants.)
- **Mental health problems/substance abuse:** 43.3 percent of African Americans had none, compared to 41 percent of Latinos/Hispanics and 28.2 percent of Caucasians. (Data not entered for 30.7 percent of defendants.)

(Measures retained but modified in the new bail instrument)

- **Lives with:** Caucasians were more likely to live alone; less likely to live with parents or relatives; and more likely to live with spouse.
- **Financial self-support:** 35.2 percent of African Americans were supported by own income, compared to 35.9 percent of Latinos/Hispanics and 43 percent of Caucasians. (Data not entered for 6.1 percent of defendants.)
- **Time at current job more than a year:** 36.3 percent of African Americans compared to 33.2 percent of Latinos/Hispanics and 43.7 of Caucasians. Data were available for employed defendants only.

(Measures deleted in current bail risk instrument)

- **Own home or business:** Caucasians 9.8 percent, compared to 1.7 percent of African Americans and 1.9 percent of Latinos/Hispanics.
- **Own telephone:** 21 percent of Caucasians, compared to 9.5 percent of African Americans and 11 percent of Latinos/Hispanics.

- **Number of dependents:** 67.5 percent of Caucasians had no dependents, compared to 58.9 percent of African Americans and 57.7 percent of Latinos/Hispanics.
- **Illness/disability:** 55.1 percent of African Americans had none, compared to 55.9 percent of Latinos/Hispanics and 46 percent of Caucasians. (Data not entered for 31.4 percent of defendants.)
- **Treatment program experience:** 55.6 percent of African Americans had none, compared to 55.0 percent of Latinos/Hispanics and 37.3 percent of Caucasians. (Data not entered for 31.1 percent of defendants.)

Criminal history factors: The measures related to criminal history were also not entered consistently, so they could not be interpreted with confidence. However, the following differences were found:

- **Parole:** 4.2 percent of African Americans, 3.5 percent of Latinos/Hispanics, and 2.6 percent of Caucasians. (Data not entered for 64.8 percent of defendants.)
- **Probation:** 28.6 percent of African Americans, 29.2 percent of Latinos/Hispanics, and 26.0 percent of Caucasians. (Data not entered for 60.1 percent of defendants.)
- **Warrant arrest:** 23.0 percent of African Americans, 17.8 percent of Latinos/Hispanics, and 23.4 percent of Caucasians. Failure to Appear (FTA) indicated for 10.6 percent of African Americans, 10.5 percent of Latinos/Hispanics, and 9.8 percent of Caucasians. (Data not entered for 36.9 percent of defendants.)
- **Outstanding warrant:** 2.9 percent of African Americans, 3.8 percent of Latinos/Hispanics, and 2.8 percent of Caucasians. (Data not entered for 55.9 percent of all defendants. Caucasians were less likely than others to have data on this variable.)
- **Prior record:** “None” recorded for 17.2 percent of African Americans, 18.0 percent of Latinos/Hispanics, and 15.0 percent of Caucasians. Felony conviction or felony prison in the past five years recorded for 15.6 percent of African Americans, 13.9 percent of Latinos/Hispanics, and 8.3 percent of Caucasians. (Data not entered for 61.4 percent of defendants.)
- **Prior Failure To Appear (FTA):** Convictions recorded for 6.4 percent of African Americans, 6.3 percent of Latinos/Hispanics, and 5.8 percent of Caucasians. Pending cases recorded for 2.1 percent of African Americans, 2.1 percent of Latinos/Hispanics, and 1.9 percent of Caucasians. (Data not entered for 86.8 percent over all, higher for Caucasians.)

Holding multiple factors constant, are there differences across race and ethnicity in pretrial conditions ordered by the court?

Caucasians were more likely to be released with a Written Promise to Appear (WPTA) or Conditional Promise to Appear (CPTA): 47.9 percent, compared to 23.4 percent of African Americans and 27 percent of Latinos/Hispanics, as shown in this more detailed table.

Type of Bond

	Race/ethnicity			Total
	African American	Caucasian	Latino/ Hispanic	
Cash	3.0%	1.8%	3.4%	2.6%
CPTA	18.6%	40.6%	21.7%	28.9%
WPTA	4.8%	7.3%	5.3%	6.0%
Disposed	8.3%	4.4%	9.0%	6.7%
Percent	0.5%	0.6%	0.6%	0.6%
Surety	46.6%	34.7%	44.7%	41.0%
Non-Surety	0.5%	0.3%	0.3%	0.4%
Not entered	17.8%	10.3%	15.0%	13.9%
	100.1%	100.0%	100.0%	100.1%
Total #	8113	9989	4735	22837

Holding multiple factors constant, predictions of court orders of cash, surety, or percent bond, as opposed to a promise to appear (with or without conditions) could be made accurately **73.3 percent** of the time. The following predictors were statistically significant, in the order listed:

- **Charge severity**
- **Race/ethnicity (not Caucasian)**
- **Number of cases disposed in 2001**
- **Number of charges**
- **Male Gender**
- **Young Age**

Again, total bail score and criminal history were not available for this analysis; however, the number of cases disposed in 2001 does provide a measure of very recent criminal history.

Holding multiple factors constant, are there differences across race and ethnicity in bond amount, bond scores, or pretrial conditions for defendants charged with drug offenses, in particular?

For people whose most serious charges were felony drug offenses (possession and sale), the release decision suggested by total points on the bail risk instrument were not significantly different by race/ethnicity, as shown below.

However, for this same group, bail commissioners' recommendations to the court differed significantly by race/ethnicity, as shown below. Caucasians were more likely to be recommended for release on a written or conditional promise to appear. *It is important to note that data on bail commissioners' recommendations were not entered for 30.1 percent of the cases.*

Bail commissioner recommendation by race/ethnicity

Bond type recommended	Race/Ethnicity			Total
	African American	Caucasian	Latino/Hispanic	
Cash, surety, percent bond	82.7%	72.7%	84.5%	80.8%
Conditional PTA or WPTA	17.3%	27.3%	15.5%	19.2%
	100.0%	100.0%	100.0%	100.0%
Total number	934	469	560	1963

Most serious charge at arrest across race and ethnicity

	African American	Caucasian	Latino/Hispanic	Total
A or B Felony	2.8%	1.1%	1.9%	1.6%
C Felony	5.9%	3.3%	4.9%	4.2%
U Felony	10.5%	4.4%	8.6%	6.8%
D Felony	6.6%	3.8%	5.1%	4.7%
Misdemeanor	66.1%	74.8%	69.5%	71.7%
Violation, Infraction	8.1%	12.5%	10.0%	11.0%
	100.0%	99.9%	100.0%	100.0%
Total Number	22135	53543	16466	92144

Bail Disposition when most serious charge at arrest was 21a-279(a) [possession of narcotics/cocaine]

Bond type recommended	Race/Ethnicity			Total
	African American	Caucasian	Latino/Hispanic	
Cash	1.7%	2.0%	1.6%	1.8%
CPTA	10.3%	11.1%	7.1%	9.9%
WPTA	9.5%	9.0%	6.8%	8.6%
Disposed	15.5%	9.3%	16.9%	13.1%
Percent	0.4%	0.9%	0.5%	0.7%
Surety	34.1%	36.5%	40.4%	36.6%
Note Entered	28.4%	31.2%	26.7%	29.3%
	100.0%	100.0%	100.0%	100.0%
Total number	934	469	560	1963

Court-ordered bond: Court-ordered bond in these felony drug cases (excluding the 8 percent that were disposed and the 22.3 percent with data not entered) generally reflected the bail commissioners' recommendations: 16.3 percent of African Americans were given a conditional or written promise to appear, as were 13.7 percent of Latinos/Hispanics, and 27.3 percent of Caucasians. Holding multiple factors constant, court-ordered bond in these cases could be predicted accurately 81.8 percent of the time. The following factors, in order of significance, were statistically significant predictors:

Severity of the most serious charge

- Number of charges
- Male gender
- Race/ethnicity (non Caucasian)
- Number of cases disposed 2001
- Charge at arrest associated with a mandatory minimum sentence

Again, total bail score and criminal history were not available for this analysis; however, the number of cases disposed in 2001 does provide a measure of very recent criminal history.

Court-ordered conditions: Among these cases where the most serious charge was a felony drug offense, 195 defendants (out of 290 who had conditions associated with the type of release ordered by the court) had at least one court-ordered condition entered into the file. The most common conditions (ordered for 10 or more defendants) were:

- **Urine testing:** Ordered for 40.5 percent of African Americans, 36.8 percent of Latinos/Hispanics, and 38.5 percent of Caucasians.
- **Outpatient drug treatment:** Ordered for 17.7 percent of African Americans, 21.1 percent of Latinos/Hispanics, and 29.5 percent of Caucasians.
- **Drug abuse evaluation:** Ordered for 10.1 percent of African Americans, 15.8 percent of Latinos/Hispanics, and 16.7 percent of Caucasians.
- **Electronic monitoring:** Ordered for 12.7 percent of African Americans, 2.6 percent of Latinos/Hispanics, and 12.8 percent of Caucasians.
- **Inpatient drug treatment:** Ordered for 7.6 percent of African Americans, 10.5 percent of Latinos/Hispanics, and 11.5 percent of Caucasians.
- **Report to Bail Commission Monday/Wednesday/Friday:** Ordered for 5.1 percent of African Americans, 2.6 percent of Latinos/Hispanics, and 9.0 percent of Caucasians.

Among defendants charged with all unclassified felony drug offenses (both possession and sale), then, Caucasians were more likely to be granted release on a promise to appear, and were also more likely to have a condition associated with their release. Of those with conditions, differences also appeared in the types of conditions that were ordered. Controlling for additional factors associated with the types of conditions ordered, however, was unwieldy at this level of detail.

Holding multiple factors constant, are the differences in release decisions more or less common in courts that serve large urban areas? Mid-sized cities? Rural areas?

Four major urban courts: Analyses comparing the four major urban courts to the other courts found:

- Court orders closely approximated bail commissioner recommendations in both categories of courts.
- Differences in court orders across race/ethnicity were greater in the four major urban courts than in the other courts. For example, in the four urban courts, 53.4 percent of Caucasians were released on a promise to appear (WPTA or CPTA), compared to 26.8 percent of African Americans and 30.3 percent of Latinos/Hispanics; in the other courts WPTAs or CPTAs were

ordered for 57 percent of Caucasians, 37.3 percent of African Americans, and 41.8 percent of Latinos/Hispanics.

Financial release: Multivariate analysis of court orders in the four major urban courts only found the following factors significantly associated with financial release (73.3 percent accuracy), for all crimes, in order of importance:

- Seriousness of charges
- Number of charges
- Race/ethnicity (not Caucasian)
- Male gender
- Number of cases disposed in 2001
- Younger age

Again, total bail score and criminal history were not available for this analysis; however, the number of cases disposed in 2001 does provide a measure of very recent criminal history.

Court orders for defendants charged with mandatory minimums in the four major urban courts: These patterns were also found upon separate examination of defendants whose original charges (both drug and non-drug offenses) were associated with mandatory minimum sentences. The following tables show the data for court orders for defendants charged with mandatory minimums.

Court orders for defendants charged with mandatory minimums (data on court order missing for 17.8 percent of files)

		Race/Ethnicity			Total
		Black	Caucasian	Latino	
Not one of top four	Cash, Surety, percent	89.5%	83.8%	88.0%	87.0%
	CPTA or WPTA	10.5%	16.2%	12.0%	13.0%
		100.0%	100.0%	100.0%	100.0%
	Total number	421	408	208	1037
One of top four	Cash, Surety, %	90.9%	80.5%	87.4%	88.3%
	CPTA or WPTA	9.1%	19.5%	12.6%	11.7%
		100.0%	100.0%	100.0%	100.0%
	Total number	864	226	462	1552

Financial release for cases with mandatory minimums and in urban courts: Holding multiple factors constant, financial release in these cases could be predicted accurately 88.3 percent of the time. Analysis of court orders in the four major urban courts only found the following factors significantly associated with financial release for all crimes, in order of importance:

- Male gender
- Number of charges
- Race/ethnicity (not Caucasian)
- Seriousness of charges
- Younger age

Section 2.C.3. JURY

The Commission on Racial and Ethnic Disparity in the Criminal Justice System was interested in determining whether members of Connecticut's minority communities are represented in the jury system at the same rate as the general adult population. Working with the Trial Subcommittee, The Justice Information Center (TJEC) began a review of the jury selection process and available data.

a. OVERVIEW OF FINDINGS

Five courts (Bridgeport, Hartford, Derby, New London and Litchfield) were selected for a small study to assess whether outcomes in the jury selection process varied by court. The courts were selected based on the minority populations that reside in each jurisdiction. Hartford and Bridgeport are the jurisdictions in the state with the largest minority populations. The Litchfield and Derby court have small minority populations, under 10 percent. New London falls near the center of the range for minority residents at about 18 percent. The statistics from each court were compared to determine the outcome rates at which prospective jurors were confirmed, disqualified, unreachable, excused, or completed jury service.

- There are clear distinctions between the Bridgeport and Hartford courts and the courts in Litchfield, Derby and New London. At the two courts serving large minority populations, disqualification rates are significantly higher than for the remainder of the sample. Confirmation rates are lower in Bridgeport and Hartford than in the sample. The rate of undeliverable mail is also significantly above the sample for Bridgeport and Hartford.
- Although Bridgeport and Hartford have significant minority populations, outcome differences when compared to other courts do not prove that minorities do not serve at the same rate as the general adult population. In the court appearance data, Hartford and Bridgeport fall within the range, or exceed the range, for the rate of jury service. Nevertheless, the No Response rate is significantly above the sample in both Hartford and Bridgeport. Court excusal rates account for only a small percentage of outcomes. Excusals are under 3 percent in both Hartford and Bridgeport.

Without explicit data on the race and ethnicity of prospective jurors at critical points in the jury selection process, no definitive system-wide conclusions can be drawn about the rates at which the state's minorities participate in the jury process. Acquiring such data would require statutory approval.

b. FULL STUDY

Jury selection

The Judicial Branch does not collect data on the racial and ethnic composition of prospective jurors at any point in the jury selection process and, indeed, lacks the statutory authority to do so. In order to insure that minority communities are proportionally included in jury arrays, the state's Jury Administrator uses several electronic source lists to cast a broad net in its search for prospective jurors. The lists are collected on an annual basis from the Department of Motor Vehicles, The Registrar of Voters in each town, the Department of Revenue Services and the state Labor Department. Combined these source lists total over 6 million names, almost twice the state's total population.

Major source lists used by Jury Administrator in 2002		
Source	Size of list	Information
Dept. of Motor Vehicles	2,321,185	Licensed drivers
Town Registrar of Voters	1,994,185	Registered voters
Department of Revenue Services	1,957,934	State income tax returns
Labor Department	138,875	Unemployed workers

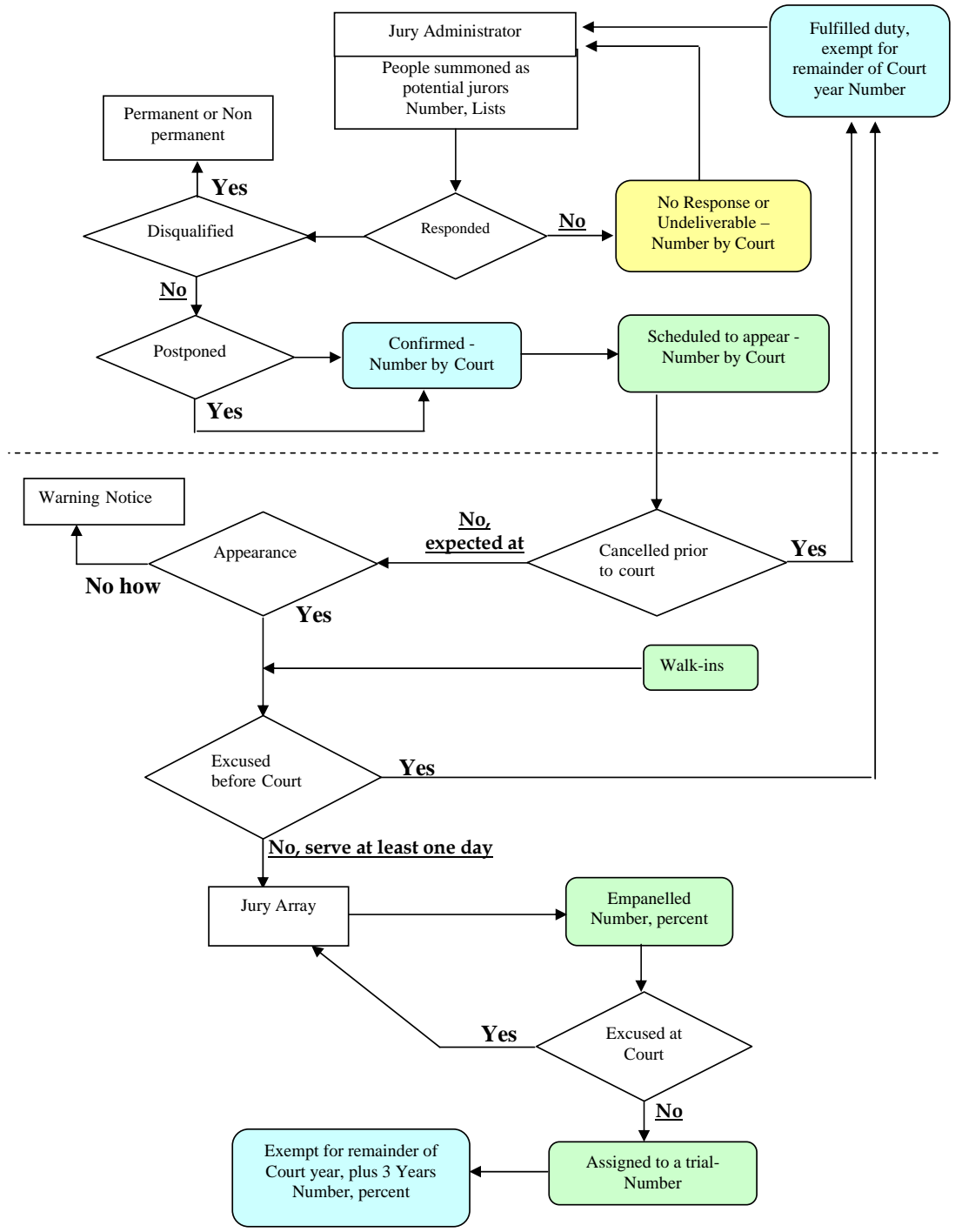
Computer software culls duplicates, the deceased, judges, and the permanently disqualified from the lists. The number of summonses issued is based on a statistical projection of the need for jurors, at each court, during the calendar year. By statute, summonses are sent to prospective jurors in various towns based on the total population of each that town within a given Judicial District. In the Hartford Judicial District, for example, 24.7 percent of summonses are sent to the city of Hartford, whose population comprises 24.7 percent of the District's population.

Because of the lack of clear data on the racial and ethnic composition of juries in the state the Commission can only infer the degree of minority participation in the jury system.

Flow diagram

The Justice Education Center (TJEC) has attempted to identify critical points in the jury selection process where members of minority communities might be impacted at rates different than those of the general population. Diagram 1 is based on information provided by the Trial Subcommittee and identifies key points in the jury selection process where data is currently available. The diagram also identifies the data that is currently available at each juncture.

Diagram 1. Flow diagram of Jury Process



Analysis of the jury data

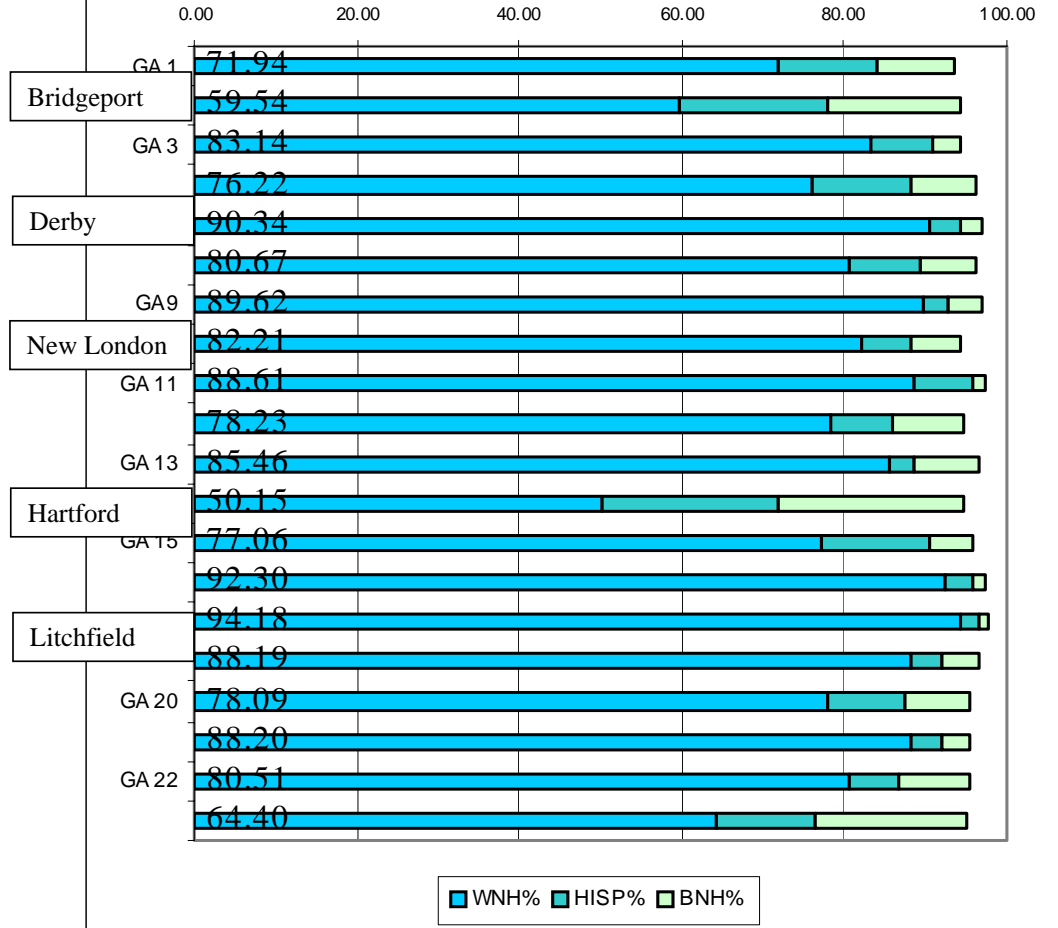
The Jury Administrator provided the Commission with a report containing data for 2000, 2001, and 2002 on jury confirmations and appearances for individual courts and judicial districts. Unfortunately the data was not readily available in electronic format which would have allowed for a system-wide analysis. The following variables are available in the report.

Confirmations	Appearances
Summons	Scheduled
Confirmations	Served
Disqualification	Excused
No Response	Cancellations
Undeliverable	No Shows
Postponements	Walk-ins

Five courts (Bridgeport, Hartford, Derby, New London and Litchfield) were selected for a small study to assess whether outcomes in the jury selection process varied by court. The courts were selected based on the minority populations that reside in each jurisdiction (see Figure A). Hartford and Bridgeport are the jurisdictions in the state with the largest minority populations. The Litchfield and Derby court have small minority populations, under 10 percent. New London falls near the center of the range for minority residents at about 18 percent.

The statistics from each court were compared to determine the outcome rates at which prospective jurors were confirmed, disqualified, unreachable, excused, or completed jury service. Although Bridgeport and Hartford have significant minority populations, outcome differences when compared to other courts are inconclusive.

Figure A.. Percentage of Groups in Superior Court Jurisdictions in CT, 2000



Figures 1 through 4

These four figures show the rates, by court, for the various outcomes in the jury confirmation process. The percentages given by court are relative to the number of mailings. The percentage of postponements can be ascertained using the following formula.

(%postponed = 100% -(%confirmed + %disqualified + %no response + %undelivered)

Observations

- Disqualification is the most common outcome in the confirmation process. Bridgeport (41.8 percent) and Hartford (36.7 percent), the two courts with the highest minority populations, had the highest rate of disqualification among the sample courts.
- Confirmed responses were the second most common outcome in all courts. The confirmation rate in Litchfield was 50 percent greater than in Hartford and almost 80 percent greater than in Bridgeport.
- The No Response rate was comparable across courts and exhibited a strong seasonal component (see also Figure 7).
- The rate of undeliverable mail is significantly higher in the state's urban courts. Hartford had the highest rate of undeliverable mail (14.3 percent) followed by Bridgeport (12.9 percent) and New London (11.2 percent). The rate of undeliverable mail in Hartford was 50 percent greater than in Litchfield.
- During the confirmation process prospective jurors may be disqualified for several factors including: lack of US citizenship, lack of English-language fluency, felony convictions, and age. The citizenship and fluency requirements may affect Latinos/Hispanics at rates above the general population.
- These data do not fully explain that the observable differences among the courts result from policies or procedures that exclude or limit minority representation. Court culture, urban/suburban differences, economics and other factors may explain these variations.

Jury Confirmation Information

Figure 1. Annual Confirmation Rate, 2001

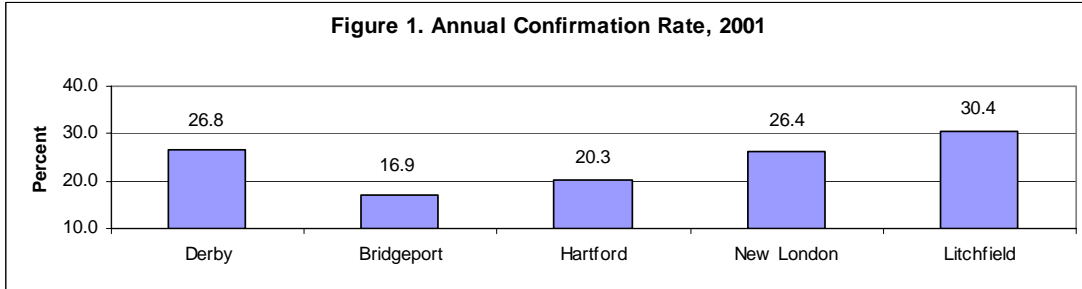


Figure 2. Annual Disqualification Rate, 2001

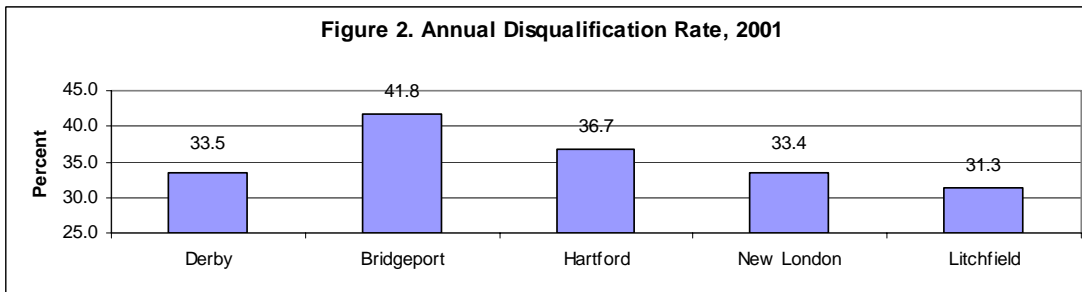


Figure 3. Annual No Response Rate, 2001

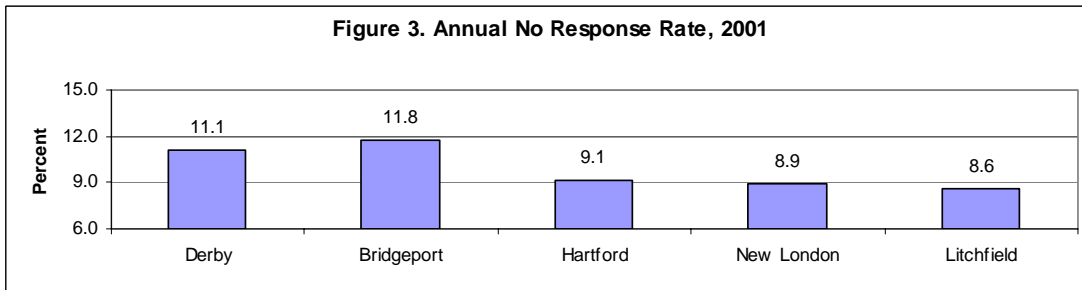
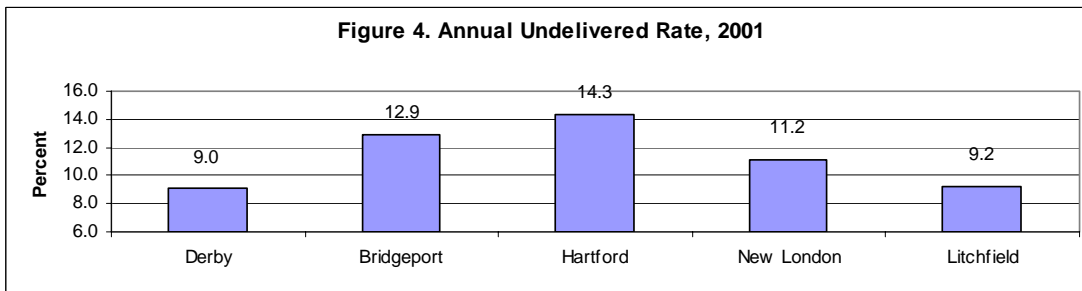


Figure 4. Annual Undelivered Rate, 2001



Figures 5 through 7

These figures present monthly percentage summaries for confirmations, disqualification and No Responses at each court.

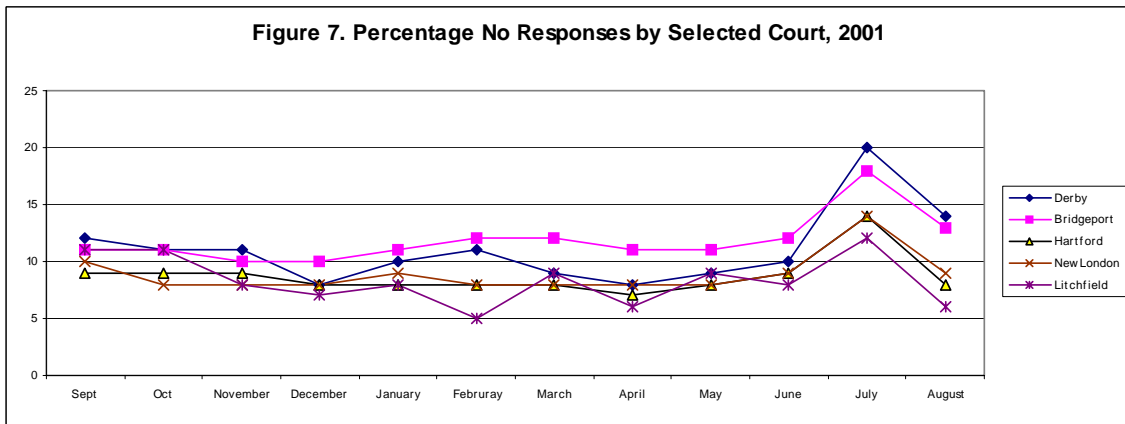
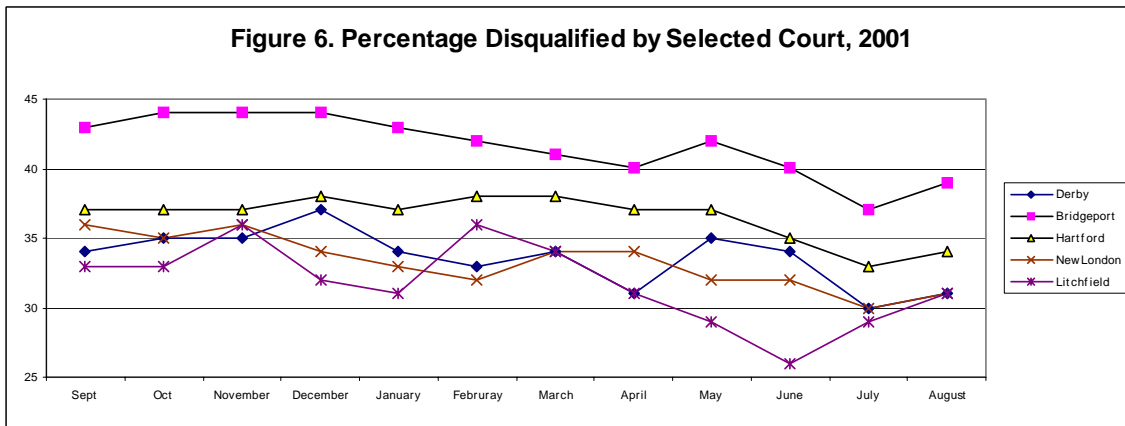
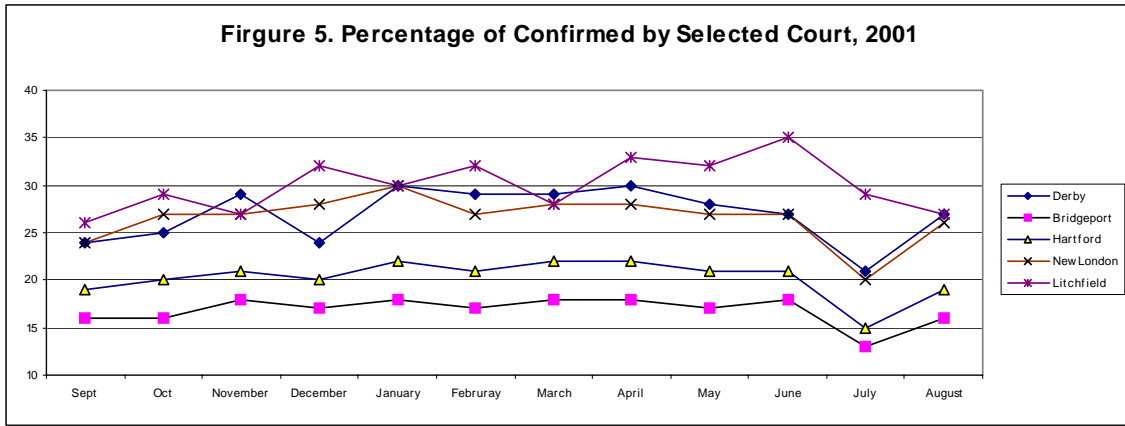
The Jury Administrator provided statewide disqualification data for Court years 2000 and 2001. The two major causes for disqualification in the state are the age exemption for persons over 70 and undeliverable mail.

Disqualification in Court Year 2001		
Reason for Disqualification	Number	Percent
70 years or older, choose not to serve	49821	19.3
Undeliverable summons	44867	17.4
Previous jury duty within past two years	43000	16.7
Not a CT resident	27479	10.6
Not a US citizen	13323	5.2
Moved out of Judicial District	12903	5.0
English fluency	11833	4.6
Extreme hardship	10956	4.2
Standby Notice	9537	3.7
Deceased	8978	3.5
Physical or mental disability	8674	3.4
Jurors excused by court	8020	3.1
All other reasons	8752	3.4
Total	258143	100.0

Observations

- Figure 5 shows how the rates of confirmations are consistently lower at the Bridgeport and Hartford courts.
- Figure 6 show that disqualification rates in Hartford and Bridgeport are consistently higher throughout the year.
- Figure 7 shows the similarity in the rate of No responses among all courts including an observable spike in No Responses in July.

Jury Confirmation Information, continued



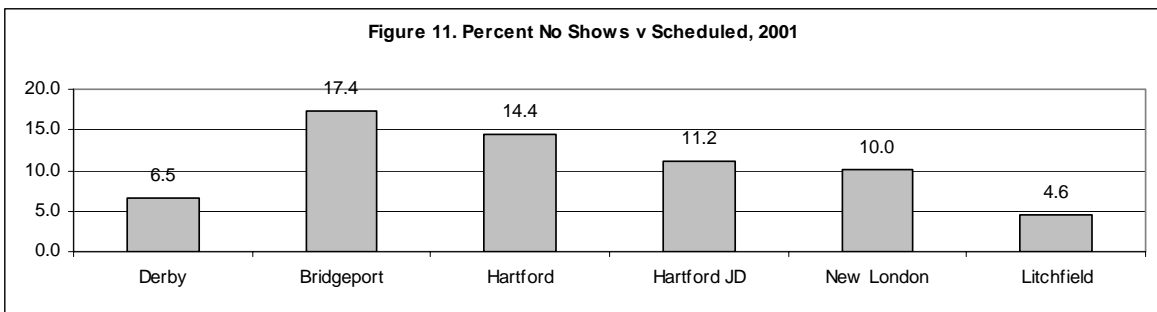
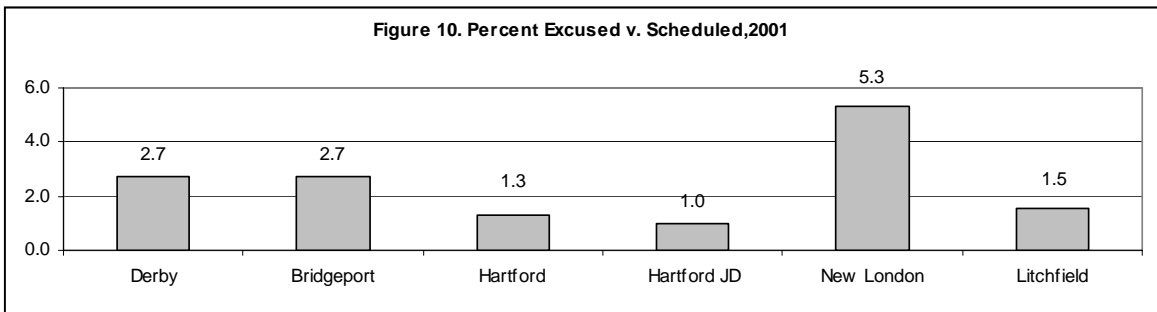
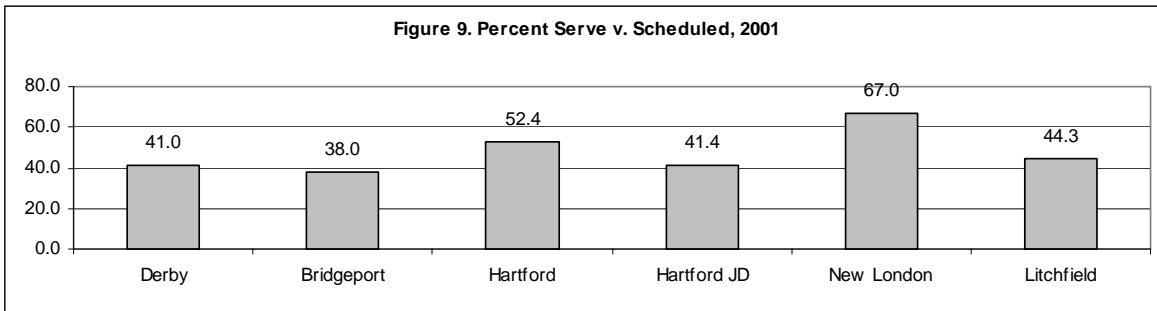
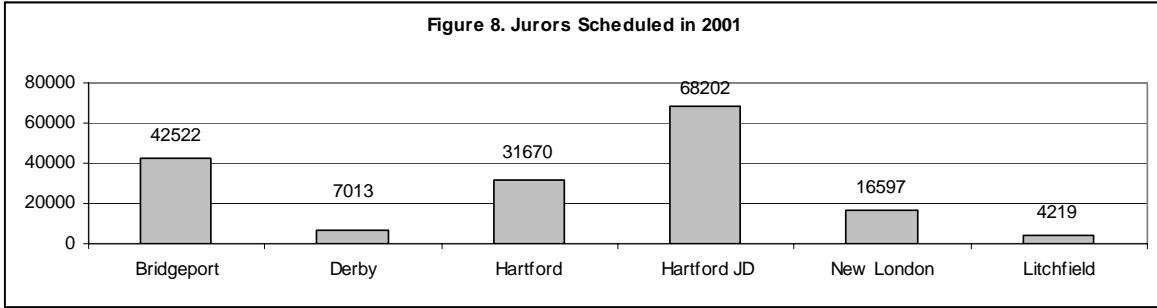
Figures 8 through 11

These figures present annual percentages of outcomes for each court in 2001. The percentages shown for each outcome are related to the number of scheduled prospective jurors. A close approximation of the percentage of court cancellations may be calculated by subtracting the combined percentages for scheduled, excused, and No Shows from 100 percent. Included in these figures are statistics for both the both the Hartford Court and the Hartford JD.

Observations

- As expected, Hartford and Bridgeport have the highest number of scheduled jurors.
- Jury service was the most common outcome for scheduled jurors at all courts in the sample. New London and Hartford had the highest rate of service. Hartford court had a jury service rate 20 percent higher than the entire Hartford JD.
- Although excusal constitutes only a small percentage of outcomes, it varies widely by court. The excusal rate in New London is five time higher than that for the Hartford JD, four times higher than Hartford Court's and twice as high as Derby and Bridgeport.
- Over 17 percent of scheduled jurors in Bridgeport do not appear for jury duty on the day they are scheduled. Hartford, Bridgeport and New London have significantly higher rates of No Shows than either Derby or Litchfield.
- The rate of No Shows in each court far surpassed the rate of excusals. In Hartford, the rate of No Shows was over 10 times greater than the rate of excusals.

Jury Appearance information



Conclusions

Confidence in the fair administration of justice depends on a jury selection process that is random and that does not systematically exclude any cognizable group of the population. Fairness in jury selection procedures is required by the constitutional mandates of due process and equal protection.

Questions about minority representation were addressed by the trial court and ultimately the Connecticut Supreme Court in State v. Gibbs, 254 Conn. 578 (2000). The courts, focusing on a claim of Hispanic under-representation in jury arrays in the Hartford-New Britain Judicial District, considered a great deal of data collected on the jury summoning process. An earlier challenge regarding African-American representation was dropped after data revealed that there was not statistically significant under-representation of that minority group.

The courts determined that, while the process was constitutionally sound, *i.e.* jury arrays are summoned in a race- and ethnicity- blind random process, nevertheless Hispanics were underrepresented in the jury pools. Hispanics comprised approximately 7 percent of the adult population in the Hartford-New Britain Judicial District, but only 4.21 percent of those eligible for jury service. The courts determined, however, that the under-representation was not caused by any systemic flaws or unconstitutional methods in the summoning procedures, but principally by stale addresses resulting from population mobility. Other relevant causes identified were disqualifying factors such as the statutory requirement that jurors speak English.

Subsequently, in State v. Ferguson, 260 Conn. 339 (2002) the Supreme Court held that, since the processes for summoning jurors is the same statewide, the findings in Gibbs regarding the Hartford-New Britain judicial district were applicable to jury arrays in all other parts of the state.

While Connecticut's jury summoning procedures meet constitutional muster, there is still much that can and should be done to improve the effectiveness of the process and the inclusion of more members of minority groups. Suggested means of achieving this goal include the provision of transportation to outlying courts, the provision of day care for jurors' children, improved community outreach, and the enforcement of the statutory provision that employers not withhold wages of termination employment for citizens performing jury duty.

The Commission performed a mini-study of jury selection data from five court locations around the state: Hartford, Bridgeport, Litchfield, Derby, and New London. This study was hampered by the lack of explicit data on the race and ethnicity of those summoned for jury duty. Acquiring such data would require statutory approval.

With the limited data available, however, several distinctions between courts serving large minority populations and courts in areas without large minority populations emerged. For example, in Bridgeport and Hartford, the two surveyed courts serving large minority populations, the rate of undeliverable mail is significantly above the sample. Disqualification rates in these courts are also significantly higher than for the remainder of sample. The Jury Administrator is currently processing a report on the reasons for disqualification by town residence. This report should elucidate this question further. Confirmation rates are lower in Bridgeport and Hartford than in the sample.

In the court appearance data, Hartford and Bridgeport fall within the range or exceed the range for the rate of jury service. Nevertheless, the No Response rate is significantly above the sample in both Hartford and Bridgeport. Court excusal rates account for only a small percentage of outcomes. Excusals are under 3 percent in both Hartford and Bridgeport.

Section 2.C.4. SENTENCING

During their 2002-2003 meetings, the Commission identified several questions surrounding sentencing for further analysis. The goal was to determine whether there is a difference by race or ethnicity in sentencing decisions and if so, to understand how race/ethnicity contributes to such differences.⁹

Sentencing decisions are complicated to understand and difficult to measure completely. Judges may take many factors into account which could not be measured by this analysis: *e.g.*, factors for which there is no systematic record (such as defendants' remorse or demeanor); factors for which there are no electronically available or consistently recorded information (such as victims' statements about the impact of the crime, found in pre-sentence investigation reports); or information from electronic records which were incompatible with the CRMVS file (such as complete criminal history records).¹⁰ As previously described, analyses completed for the Commission have been based on the data available electronically.

The reoccurrence of the variable 'number of cases disposed in 2001' as a statistically significant factor in the majority of the analyses in this chapter indicates the importance of criminal history for sentencing outcomes.

Using "Criminal Motor Vehicle System" (CRMVS) records and data collected and entered from interviews conducted by bail commissioners and recorded on the bail risk instrument (electronic data from the bail instrument), The Justice Education Center analyzed CRMVS data for cases disposed in 2001 for defendants arrested in 2000 or 2001.¹¹ Since the bail instrument was developed to assess risk of failure to appear in court, it includes, and accords points to, information that is not ordinarily considered in sentencing decisions, and is therefore not ideal for this analysis. However, it also includes many pieces of information about individual defendants related to criminal history that are commonly considered, so it was used for these analyses. The findings in this section, however, as in the other sections related to court processes, must be read with the caveat that the Commission did not have access to complete prior criminal history information.

⁹ All analyses reported here are based on the reclassification of Hispanics described in section 2.D.2

¹⁰ A new, more comprehensive, system of data, the CJIS (Criminal Justice Information System), is being developed, but has not yet been fully implemented, so its data were not available for Commission review.

¹¹ Data elements in this file include docket number (which identifies court location as well), dates of arrest and disposition, charges at arrest (the specific statutes and "seriousness"—A felony, B felony, etc.), charges at disposition (specific statutes and seriousness), defendant demographics (date of birth, gender, and race/ethnicity), verdict, disposition, and length of sentences to incarceration or probation. These records were organized so that individual defendants were included in the file only once (based on social security number). For defendants with multiple cases, the case with the most serious disposition (and its associated charges and other information) was selected for analysis. New variables were created to indicate the number of cases an individual had disposed in 2001, the number of charges in the case used for analysis, the statutes associated with mandatory minimum sentences, and cases with a "substitute of information" before disposition. For defendants with multiple cases, where race/ethnicity was recorded inconsistently across cases and at least one case identified the defendant as Hispanic in the Census, and who lived in towns with a majority of residents self-identifying as Hispanic, ethnicity was coded as Hispanic.

a. OVERVIEW OF FINDINGS

Sentencing data

- **Differences in sentencing across race and ethnicity:** Approximately 10 percent of defendants were sentenced to incarceration: 15 percent of African Americans, 11 percent of Latinos/Hispanics and 7.4 percent of Caucasians. In other words, African Americans were twice as likely as Caucasians to be sentenced to a period of incarceration. Latinos/Hispanics were sentenced to incarceration at rates about mid-way between African Americans and Caucasians. However, this fact alone does not provide a full picture of sentencing, because sentencing responds to specific charges and other considerations.
- **Differences in criminal case profile across race and ethnicity:** African American and Latino/Hispanic defendants had more serious criminal cases as measured in different ways:
 - They were more likely to be charged with felonies.
 - Their charges were more likely to be associated with mandatory minimum sentences.
 - They were more likely to have been arrested on multiple charges.
 - They were more likely to have other criminal cases disposed during the same year.
- **Analysis of data from CRMVS alone (this means, limited criminal history information without measures relating to poverty, social class or court location):** Multivariate analysis of cases with sentences to either incarceration or probation, based only on CRMVS data, showed that the number of cases disposed for an individual defendant in 2001 (with arrests in 2000 or 2001) was the strongest predictor of a sentence of incarceration. This was followed, in order, by: the charge at arrest being associated with a mandatory minimum sentence, male gender, seriousness of the highest charge at disposition (A felony, B felony, etc.), race/ethnicity, number of charges in the case, and age. In other words, race/ethnicity remained a statistically significant predictor of a sentence to incarceration even when the other factors listed above were controlled statistically, but ranked fifth of the seven predictors.
- **Analysis of data from a sub-sample (CRMVS plus the bail file):** Multivariate analysis of cases with sentences to either incarceration or probation, based on both CRMVS and bail data (as described above), showed that the severity of the most serious charge at conviction was the strongest predictor of a sentence to incarceration. This was followed, in order, by: number of other cases disposed in 2001, male gender, court location, charge at arrest associated with a mandatory minimum, race/ethnicity, age, and number of charges in the case. In other words, when these factors were controlled statistically, race/ethnicity was the sixth of the eight predictors of a sentence to incarceration.
- **Difference in length of sentence by race and ethnicity:** Although African Americans and Latinos were more likely than Caucasians to be sentenced to more than three years of incarceration and less likely to be sentenced to a year or less, multivariate analysis showed that the seriousness of the charge (A felony, B felony, etc.) and the number of charges were the most powerful predictors of longer sentences. Race/ethnicity was **not** a statistically significant predictor when these and other factors were controlled statistically.

More refined analysis of the data

- **Court location:** Court location and defendants' town of residence were among the statistically significant predictors of a sentence to incarceration. *Controlling for other factors*, African

American and Latino/Hispanic defendants whose cases were heard outside of the four major urban courts were more likely to be sentenced to incarceration. Similarly, African American and Latino/Hispanic defendants who live in towns where African Americans and Latinos/Hispanics comprise a smaller percentage of the population were more likely to be sentenced to incarceration.

- **Drug charges:** Multivariate analysis only of cases with unclassified felony drug charges (both possession and sale) at the time of disposition also found that severity of the most serious charge at conviction was the strongest predictor of a sentence to incarceration. This was followed, in order, by the number of cases disposed in 2001 (with arrests in 2000 or 2001), race/ethnicity, male gender, number of charges, and court location.

b. FULL STUDY

In 2002 the Commission posed a series of questions regarding potential occurrences of disparity in sentencing determinations. The questions presented by the Commission are indicated by italics. The subsequent findings, based on a study of all defendants with cases disposed in 2001 (with arrest in 2000 or 2001), follow the question. There are two primary groups of analysis:¹²

1. Data from court cases that were disposed in 2001 from the “Criminal Motor Vehicle System” (CRMVS) records alone;
2. Data from cases for a sub-sample of defendants who were seen by bail commissioners, combining CRMVS data with the defendant’s bail information.

1. Analysis of sentencing data from the “Criminal Motor Vehicle System” (CRMVS) records alone (hence, extremely limited criminal history information without measures relating to poverty, social class, or court location).

Are there differences across race/ethnicity in the most serious charge at arrest?

	African American	Caucasian	Latino/Hispanic	Total
A or B Felony	2.8%	1.1%	1.9%	1.6%
C Felony	5.9%	3.3%	4.9%	4.2%
U Felony	10.5%	4.4%	8.6%	6.8%
D Felony	6.6%	3.8%	5.1%	4.7%
Misdemeanor	66.1%	74.8%	69.5%	71.7%
Violation, Infraction	8.1%	12.5%	10.0%	11.0%
	100.0%	99.9%	100.0%	100.0%
Total Number	22135	53543	16466	92144

¹²There are many forms of multivariate analysis. For the sentencing analysis performed for the Commission “Logistic regression” was used for analyses were used. Using this methodology, analysis focused on sentences that included incarceration (either alone or as part of “split” sentences that were followed by periods of probation) as opposed to probation alone. This focus was pursued for two primary reasons: 1) it addresses the Commission’s statutory charge related to correctional facilities; and 2) it distinguishes between the two most restrictive sentencing options. In other words, it examines the most serious cases and the most difficult choices.

African Americans were charged with felonies at higher rates (25.8 percent) than Latinos/Hispanics (20.4 percent) or Caucasians (12.8 percent).

Caucasians were charged with misdemeanors, violations or infractions at higher rates than Latinos/Hispanics or African Americans.

Was the most serious charge at arrest associated with a mandatory minimum sentence?

	African American	Caucasian	Latino/ Hispanic	Total
No	90.9%	97.6%	93.8%	95.3%
Yes	9.1%	2.4%	6.2%	4.7%
	100.0%	100.0%	100.0%	100.0%
Total Number	22135	53546	16466	92147

African Americans' charges at arrest were more likely to be associated with mandatory minimum sentences than were charges for Latinos/Hispanics or Caucasians.

Other characteristics of defendants and their cases:

- **Number of charges:** Caucasians were more likely than other defendants to be facing a single charge in their case: 43.2 percent faced a single charge, compared to 37.0 percent of African Americans and 36.3 percent of Latinos/Hispanics. Caucasians were also least likely to be facing three or more charges: 24.5 percent faced multiple charges, compared to 34.0 percent of African Americans and 35.5 percent of Latinos/Hispanics.
- **Number of other cases:** Caucasians were more likely than other defendants to have had only a single case involving an arrest in 2000 or 2001 that was disposed in 2001: 80.7 percent had just one case, compared to 72.9 percent of the African American defendants and 76.2 percent of the Latino/Hispanic defendants. Caucasians were also least likely to have had three or more cases disposed in 2001: 6.9 percent of Caucasians, compared to 10.8 percent of African Americans and 9.0 percent of Latinos.

This information is helpful because the electronic court records do not include information about criminal history. The number of arrests in 2000 and 2001 disposed in 2001 indicates at least very recent criminal history that the court could consider in case disposition.

Was there a "Substitute of Information" prior to disposition?

	African American	Caucasian	Latino/ Hispanic	Total
No	79.2%	79.0%	80.4%	79.3%
Yes	20.8%	21.0%	19.6%	20.7%
	100.0%	100.0%	100.0%	100.0%
Total Number	22135	53546	16466	92147

Cases involving Caucasian defendants were just slightly more likely to have had substitute charges prior to disposition than those involving African American or Latino/Hispanic defendants.

What were the final dispositions of these cases?

	African American	Caucasian	Latino/ Hispanic	Total
Split sentence	6.7%	4.8%	5.0%	5.3%
Incarceration only	8.3%	2.6%	6.0%	4.6%
Probation only	17.6%	13.7%	14.4%	14.8%
Conditional Discharge	8.3%	7.1%	9.4%	7.8%
Fine	18.3%	25.2%	22.5%	23.1%
Nolle	31.8%	33.6%	32.4%	33.0%
Not Guilty/Dismissal	8.4%	12.7%	9.9%	11.1%
Other (e.g. extradited)	.5%	.3%	.3%	.4%
	100.0%	100.0%	100.0%	100.0%
Total Number	22135	53546	16466	92147

African Americans were more likely to be convicted and receive a sentence of some kind (59.3 percent of African American defendants compared to 57.4 percent of Latinos/Hispanics and 53.1 percent of Caucasians). African Americans were also most likely to be sentenced to a period of incarceration (15.0 percent of African Americans compared to 11.0 percent of Latinos/Hispanics and 7.4 percent of Caucasians).

When multiple factors are controlled, are there disparities in sentencing?

When cases that resulted in a sentence to probation or incarceration (or both) were selected for closer examination, a sentence to incarceration can be predicted accurately in 65.97 percent of cases. All of the following factors, listed in order, were statistically significant in predicting a sentence to incarceration:

- Number of cases (disposed in 2001, with arrests in 2000 or 2001)
- Charge at arrest associated with a mandatory minimum sentence
- Male gender
- Seriousness of charges (A felony, B felony, etc.)
- Race/ethnicity (not Caucasian)
- Number of charges
- Age

These analyses, however, include very limited information about criminal history and have no measure that relates to factors such as social class that are often found to be related to sentencing outcomes. A variable related to the court location was also not included.

2. Analysis of sentencing data from a sub-sample of defendants who were interviewed by a bail commissioner, thus combining CRMVS data with the defendant’s bail information for cases disposed in 2001 with arrest in 2000 or 2001.

Analysis of sentencing has focused on cases in which the defendants saw a bail commissioner because additional information is available from the bail risk assessment instrument that is completed during the interview. Personal information revealed by the defendant, such as education, employment, length of residence in Connecticut, and history of drug, alcohol, or mental health problems is included, as are specific criminal history items, such as felony convictions in the past five years, history of failure to appear in court (FTA), and additional cases pending. These and other items are assessed points that are combined to provide a total score that is intended to suggest potential risk of failure to appear in court.

Unfortunately total score on the bail instrument could not be used in this analysis due to inconsistent reporting of total score by bail commissioners.

Defendants see bail commissioners when they are unable to comply with conditions set by police for their release at the time of arrest. Usually this means they are not able to post bond. These cases are generally more “serious,” and involve defendants with more serious charges, and other characteristics which lead police to believe they pose a risk of failing to appear in court. For example, nearly 60 percent of the people charged with a felony saw a bail commissioner, compared to just 20 percent of those charged with a misdemeanor.

What were the final dispositions of cases with bail commissioner involvement?

	African American	Caucasian	Latino/Hispanic	Total
"Split" Sentence	14.6%	11.9%	13.3%	13.2%
Incarceration only	17.4%	8.9%	15.3%	13.3%
Probation only	26.3%	22.9%	25.4%	24.6%
Conditional Discharge	4.8%	4.0%	4.9%	4.5%
Fine	7.0%	7.9%	8.1%	7.6%
Nolle	23.1%	34.6%	25.7%	28.7%
Dismiss/Not Guilty	5.7%	9.0%	6.6%	7.3%
Other	1.0%	.7%	.7%	.8%
	100.0%	100.0%	100.0%	100.0%
Total Number	8112	9988	4733	22833

- 63.2 percent of defendants in this sub-sample were convicted and given a sentence of some kind— 70.1 percent of African Americans, 67.0 percent of Latinos/Hispanics, and 55.6 percent of Caucasian
- Just over half (51.1 percent) of the defendants in the bail sub-sample were sentenced to either a period of incarceration or probation, or a combination of the two. This was more than twice the rate of all defendants who received one of these sentences (24.7 percent).
- African Americans and Latinos/Hispanics were more likely than Caucasians to be sentenced to incarceration (32.0 percent of African Americans and 28.6 percent of Latinos/Hispanics, compared to 20.8 percent of Caucasians).

When multiple factors are controlled, are there disparities in sentencing to incarceration and/or probation among defendants who saw a bail commissioner?

In an effort to understand sentencing that includes the most serious consequences for defendants—incarceration -- analysis focused only on cases that resulted in sentences of either probation or incarceration, or a combination of the two. This means that cases the court considered more “minor” (understood as less serious charges or less powerful evidence) and either did not convict or did not order regular supervision, were not included. This analysis, then, looks only at cases where the police considered the defendant a high enough risk that s/he should not be released without monetary or property assurances of appearing in court and where the disposition involved a sentence that required regular, ongoing supervision. When the larger number of factors made possible by bail information were controlled statistically, a sentence to incarceration could be predicted with 64.3 percent accuracy.

The following factors, in order, were statistically significant:

- Severity of the most serious charge at conviction
- Number of points on the bail instrument
- Number of cases (disposed in 2001, with arrests in 2000 or 2001)

- Male gender
- Case was not heard in one of the four major urban courts (Hartford, New Haven, Bridgeport, or Waterbury)
- Charge at arrest involved a mandatory minimum sentence
- Race/ethnicity (not Caucasian)
- Age
- Number of charges in the present case

Are there differences in sentencing by court location or town of residence?

Separate multivariate analyses were conducted that looked at and compared sentencing in the four major urban courts with the rest of the state, and in the sixteen towns where the majority of African Americans and Latinos/Hispanics live compared with the rest of the state. All of those analyses found similar patterns.

- **Four major urban courts:** When sentences to incarceration in the four major urban courts were looked at separately, for example, most of the same factors were significant, and in about the same order of importance: severity of the most serious charge at conviction, number of cases, male gender, arrest charge associated with a mandatory minimum, number of charges in the case, and race/ethnicity (not Caucasian). Here, in contrast to the analysis above for all courts, age was not significant.
- **The rest of the state’s courts:** Examination of the rest of the state’s courts separately found the following factors, listed order of significance as predictors: number of cases, seriousness of most serious charge at conviction, male gender, race/ethnicity (not Caucasian), conviction charge associated with a mandatory minimum, and number of charges in the case. Accuracy in predicting sentencing was 65.5 percent in urban courts and 63.5 percent for the rest of the courts.
- **Town of residence:** Similar patterns were found when the towns where most African Americans and Latinos/Hispanics live were analyzed separately, and compared with defendants from the state’s remaining towns. In both of these comparisons (four major urban courts and primary towns of residence) race/ethnicity was a stronger predictor of a sentence to incarceration in multivariate analysis in sites where smaller percentages of African Americans and Latinos/Hispanics were found (*i.e.* not one of the four major urban courts or the top 16 towns of residence for either African Americans or Latinos/Hispanics). However, race/ethnicity was a statistically significant predictor (although never the strongest) in each instance.

What patterns were found for defendants arrested for felony drug charges only?

Felony drug charges are useful to analyze for two reasons: they are common felonies (*i.e.*, they are the crimes for which many are imprisoned) and they are primarily victimless crimes. Consequently sentencing decisions are less likely to be influenced by victim testimony or victim input and, therefore, it is likely that one can measure more clearly some of the major elements of sentencing.

Multivariate analysis only of cases with unclassified felony drug charges (both possession and sale) at the time of arrest also found that number of cases disposed in 2001 (with arrests in 2000 or 2001) was the strongest predictor of a sentence to incarceration. This was followed, in order, by number of charges in the present case, severity of the most serious charge at conviction, race/ethnicity, male gender, case not heard in one of the four urban courts, and charge associated with a mandatory minimum sentence. Again, case not heard in one of the four major urban courts was also a significant predictor of a sentence to incarceration, as was the defendant’s residence not in one of the towns ranked among the top 16 in the

state for percentages of African Americans and/or Latinos/Hispanics. A sentence to incarceration could be predicted with 65.7 percent accuracy for cases with felony drug charges only at arrest.

When cases with felony drug charges at disposition were examined, however, the order of importance shifts, and race/ethnicity becomes the second strongest predictor. Other factors found to be statistically significant include, in order of importance, number of cases disposed in 2001, race ethnicity, number of charges in present case, male gender, and case not heard in on of the four urban courts.

Summary: In every multivariate analysis of cases in which the courts decided to impose one of the three most substantial sentences (a “split” sentence, incarceration only, or probation only), the number of cases disposed of in 2001 was one of the two most powerful predictors. The importance of this variable suggests, among other things, the likely importance of criminal history to a more complete understanding of sentencing. Race/ethnicity was among the statistically significant factors that predicted incarceration, although it ranged from 2nd to 7th in order of importance.

Are there disparities in the length of sentences to incarceration?

The length of sentences to incarceration, by race/ethnicity, is shown in the table below (only for people who received an incarcerative sentence (either as part of a “split” sentence, or alone).

	African American	Caucasian	Latino/ Hispanic	Total
Under 6 months	17.9%	25.8%	16.2%	20.3%
6 months - 1 year	15.9%	20.0%	13.0%	16.7%
1 - 2 years	18.9%	18.9%	20.6%	19.3%
2 - 3 years	24.3%	17.5%	25.2%	22.2%
Over 3 years	23.0%	17.7%	25.0%	21.6%
	100.0%	100.0%	100.0%	100.0%
Total Number	2600	2082	1352	6034

- African Americans and Latinos/Hispanics were more likely than Caucasians to be sentenced to sentences of over three years, and less likely to be sentenced to a year or less.
- However, multivariate analyses show that seriousness of charges and number of charges were consistently the most powerful predictors of longer sentences to incarceration, and **race/ethnicity was not statistically significant** when these factors (along with points on the bail instrument, number of other cases disposed in 2001, age and gender) were controlled.

Section 2.D. POPULATION STUDIES¹³

While the mandate of the Commission is to focus on racial and ethnic disparity in the juvenile and adult criminal justice systems, the Commission recognizes that there are other factors, such as social, economic, educational, employment and cultural disparities and inequalities in our society, that impact those who are a part of those systems -- both those who commit and those who are victimized by criminal behavior. It is sometimes difficult to disentangle racial/ethnic issues from socio-economic and cultural realities. In the meantime, this report responds to the legislative mandate that invites research and recommendations for ways to address and mitigate the current problems of racial/ethnic disparity within the justice system itself.

2.D.1.	Overview of Connecticut Demographics
2.D.2.	2000 Census Data on Race/Ethnicity in Connecticut
2.D.3.	Defendant Population Study Profile
2.D.4.	Underreporting of Hispanics in Connecticut's Criminal Justice System

Section 2.D.1. OVERVIEW OF CONNECTICUT DEMOGRAPHICS

Blacks and Hispanics in Connecticut are involved in the criminal justice system at disturbingly higher rates than the at-large population. According to U.S. Census data, one in eleven Black men in the state between the ages of 18 to 64 was in prison or in jail in 2000.¹⁴ In 2000, according to data released by the U.S. Bureau of Justice, there were approximately 2.6 people on probation or parole in the state for every inmate.¹⁵ However, the singular emphasis on race in this process can obscure critical socioeconomic factors. It is informative to look at the general prison population in light of the issues being explored in this report.

National and state overview

The Bureau of Justice Statistics produces regular surveys of the nation's inmates. Their data reveal that, nationally, 75 percent of inmates in state prisons did not earn a high school diploma.¹⁶ Only 42 percent of prisoners lived with both parents for most of their childhoods. As children, inmates reported they had

¹³ Given the nature of the research and the source of the research, the two studies in this section use the terms Black (not African American), Hispanic (not Latino/Hispanic), and White (not Caucasian).

¹⁴ The U.S. Census reported that there were 86,403 Black men between the ages of 18 and 64 living in Connecticut in 2000. Of these men, 7,902, or 9%, were reported to be residing in correctional institutions.

¹⁵ In Connecticut, the figure is slightly higher than 2.6. Probation and Parole in the United States, 2001, Bureau of Justice Statistics Bulletin, August 2002

¹⁶ Wolf Harlow, Caroline, Education and Correctional Populations, January 2003, NCJ 195670

lived in foster homes, agencies or institutions at rates significantly higher than the general population. Seventy-one percent of inmates claimed to have lived in a home where at least one parent or guardian abused alcohol or drugs. Sixty-nine percent reported being arrested before the age of 20. Thirty-eight percent of inmates reported that someone in their immediate family had served time in prison. Eighty-one percent reported that they had experienced either physical or sexual abuse as children. Heroin use was reported by 24 percent of inmates

Contrast this to the most recent data for Connecticut. In 2000, Connecticut ranked first among states in per capita income and median family income and second in median household income and in the percentage of families earning more than \$75,000 per year. Connecticut had the second lowest poverty rate in the nation after New Hampshire and the fourth highest percentage of adults over the age of 25 with at least a four-year college degree. The state's public schools were ranked among the three highest performing systems in the nation¹⁷ and over two-thirds of Connecticut households own their own homes. In a recent state-by-state study based on the analysis of a variety of social and health factors -- including the rate of motor vehicle deaths, the violent crime rate, the percentage of children in poverty, access to adequate prenatal care, the rate of uninsured population, support for public health care, infant mortality rates and premature death rates -- Connecticut was ranked as the sixth healthiest state in the nation in 2003.¹⁸ According to the Bureau of Justice Statistics data, Connecticut ranked 33rd among US states for its violent crime rate and 38th for its property crime rate in 2000.

Social/income inequality

The strength of the statewide data on Connecticut makes it relatively easy to overlook the fact that the state is also home to communities, both large and small, where poverty, crime, unemployment, homelessness, and other forms of social distress are highly concentrated. Traveling across the state from west to east and from urban areas to suburban and semi-rural areas, one can witness broad disparities in income, family history, educational attainment, home ownership, crime rates, health measures, government services, employment, and residence. In fact, in recent decades economic and social disparity has been growing in Connecticut.

In 2002, the Economic Policy Institute and the Center on Budget and Policy Priorities reported that Connecticut was fifth among states in the growth of income inequality between the top and bottom earners between the 1980s and 1990s.¹⁹ In the same report, Connecticut ranked seventh in the growth of income inequality between top and middle earners between the 1980s and 1990s. Although statewide poverty rates have remained relatively constant, in the last 30 years the state's major cities have seen a steady growth in the poverty rates. Between 1970 and 2000, the poverty rate in Hartford increased from 17 percent to over 30 percent. In Bridgeport it increased from about 12 percent to 18.4 percent. New Haven's poverty rates increased from 17.5 percent to 24.4 percent. In the last 10 years, the percentage of people living below the poverty line grew in most towns in the state. Some of the state's smaller cities, like Bristol and East Hartford, saw some of the largest increases in poverty.

Hartford, the state capital and once the richest city in the country, was ranked in 2000 as the second poorest city in the U.S. It is a place where over 40 percent of children live at or below the poverty line. Median family income in Hartford is 41 percent of the statewide median, 39 percent of adults lack a high school diploma, and until recently school dropout rates stood at 50 percent. Single-mothers gave birth to almost 80 percent of children born in the city in 2000 and 59 percent of families with children were headed by single women. During the late 1990s, so many children qualified for free or reduced school

¹⁷ Connecticut State Department of Education, Press Release, November 13, 2003

¹⁸ America's State Health Rankings, 2003, United Health Foundation

¹⁹ State Income Inequality Continued to Grow in Most States in the 1990s Despite Economic Growth and Tight Labor Markets, Center on Budget and Policy Priorities and Economic Policy Institute, 2002

lunches that it was simply easier to provide these lunches to all students. In 2000, only 1.7 percent of 10th graders in Hartford public schools met the state goal on all four parts of the state standardized test. Less than 25 percent of households in the city own their own homes and mobility among families in the city is so great that almost one third of school children do not attend the same school from year to year. Along with New Haven and Bridgeport, Hartford ranks among the 10 most violent small cities in the nation and gun-related violence remains chronic.²⁰ In the face of these problems, it is no surprise that the city lost 13 percent of its population between 1990 and 2000.

It is in cities like Hartford that race and social distress intersect. In Hartford, 77 percent of the population is either Black²¹ or Hispanic. Blacks and Hispanics constitute 61 percent of the population in Bridgeport and 57 percent of the population in New Haven. Blacks are the most urban of the state's major racial and ethnic groups. Approximately 55 percent of non-Hispanic Blacks in Connecticut live in the state's five largest cities. Fifty-one percent of the state's Hispanics also live in these cities. In contrast, only 9 percent of White non-Hispanics live in these municipalities.

In 2000, 29,183 men between the ages of 18 and 45 lived in Bridgeport, 25,407 lived in Hartford and 29,496 in New Haven. In that year, the state Department of Correction reported that approximately 3,000 men in that age group from each city were incarcerated in state prisons. These 9,000 men represented almost 50 percent of the total male prison population in the state. Considering that 74.8 percent of the men in Hartford, 59 percent of the men in Bridgeport and 51 percent of the men in New Haven were either Black or Hispanic, it is no wonder that minority men appear in disproportionate numbers in the criminal justice system. We might ask, what is happening in these cities to produce half of the state's prisoners.

Interestingly, the majority of Connecticut Whites do not live in the state's largest cities. In fact, almost 70 percent of White non-Hispanics in Connecticut live in municipalities with fewer than 50,000 people. Forty-three percent live in towns with less than 25,000 residents and only 9 percent live in the five cities with over 100,000 residents. Less than one quarter of Hispanics, on the other hand, and 26 percent of non-Hispanic Blacks live in towns with less than 50,000 residents and only one in ten Blacks or Hispanics live in towns with fewer than 25,000 residents.

The degree to which most White-non Hispanics reside in areas separate from the state's minority communities can be seen in the following figures. In 2000, almost 72 percent of Black non-Hispanics in Connecticut lived in only 10 of that state's 169 towns. Similarly, 71 percent of the Hispanics lived in only 10 towns. Less than 20 percent of White non-Hispanics in the state resided in these towns.

²⁰ On the surface, data for Bridgeport and New Haven are less bleak than the data for Hartford. In large part this is due to the fact that the middle class has not abandoned those two cities to the same degree that it has Hartford.

²¹ Blacks here are non-Hispanic Blacks

Table of most populous towns for Black non-Hispanics and Hispanics, CT, 2000					
Towns with the largest population of Black non-Hispanics	Black non-Hispanics	White non-Hispanics	Towns with the largest population of Hispanics	Hispanics	White non-Hispanics
New Haven	44598	43979	Hartford	49260	21677
Hartford	43775	21677	Bridgeport	44478	43158
Bridgeport	40974	43158	New Haven	26443	43979
Stamford	17421	71610	Waterbury	23354	62406
Waterbury	16335	62406	Stamford	19635	71610
Norwalk	12231	53324	New Britain	19138	42083
Bloomfield	10445	7599	Norwalk	12966	53324
East Hartford	9051	29557	Meriden	12296	40709
Hamden	8642	42812	Danbury	11791	50945
West Haven	8257	36521	East Hartford	7552	29557
Total	211729	412643	Total	226913	459448
% of CT population	72%	16%	% of CT population	71%	17%

The three most populous counties in the state, Hartford, New Haven and Fairfield are home to slightly more than 90 percent of the state's Blacks and Hispanics and 71 percent of the White non-Hispanics. White non-Hispanics account for 73 percent of the population in Hartford and Fairfield Counties, 75 percent in New Haven County, 85 percent in New London County, 89 percent in Windham County, 91 percent in Tolland County and 95 percent in Litchfield County.

Since most of the state's White non-Hispanic population lives outside of the state's major cities, most Whites do not encounter the problems that are found concentrated in the state's urban areas on a daily basis. Most Whites in the state are not generally affected by high crime rates, underperforming schools, blight, under-employment, and other social needs so evident in the state's cities. The majority of the state's Black and Hispanics on the other hand confront these issues on a daily basis.

Poverty and Income

At \$53,935, Connecticut has the second highest median household income in the nation. For White non-Hispanics in the state, it is even higher. Across all major ethnic groups, the median household income is lower in the state's three major cities than the statewide figure.

Although only 16 percent of families in the state are Black or Hispanic, 56 percent of families in the state earning less than \$10,000 in 1999 were Black or Hispanic. Among families in the state earning under \$25,000, 42 percent were Black and Hispanic. At the other end of the income scale, Black and Hispanics families made up less than 7 percent of the families earning over \$75,000 in 1999.

Median household income in 1999				
	Connecticut	Bridgeport	Hartford	New Haven
All	53,935	34,658	24,820	29,604
Blacks	35,104	32,694	24,895	26,095
Hispanics	32,075	30,683	20,330	23,815
White non-Hispanics.	58,564	37,946	31,452	35,642

Poverty rate, 1999				
	Connecticut	Bridgeport	Hartford	New Haven
All	8%	18%	31%	24%
Blacks	19%	19%	29%	28%
Hispanics	25%	26%	39%	35%
White non-Hispanics	4%	10%	15%	15%

Crime

In 2000, 68 percent of all murders in the state occurred in the state's five largest cities. Bridgeport, Hartford and New Haven alone accounted for 55 percent of the homicides in 2000. In addition, 41 percent of the state's reported rapes, 64 percent of the robberies, over half the car thefts and 48 percent of the aggravated assaults occurred in the five largest cities.

Major Crimes in Connecticut Cities, 2000²²								
Crime	CT	Bridgeport	Hartford	New Haven	Waterbury	Stamford	5 City Total	Per-Cent
Murder	98	19	17	18	12	1	67	68%
Rape	668	85	53	63	64	9	274	41%
Robbery	3852	589	862	660	229	122	2462	64%
Aggravated Assault	6642	1291	558	971	241	155	3216	48%
Burglary	17509	1626	1630	1489	1252	297	6294	36%
Motor Vehicle Theft	13130	2168	2099	1312	842	409	6830	52%

²² Crime in Connecticut 2000, State of Connecticut Department of Public Safety

Section 2.D.2.
YEAR 2000 CENSUS DATA ON RACE AND ETHNICITY IN CONNECTICUT

Connecticut’s population has become more diverse in the past 10 years, requiring us to reconsider our assumptions about race and ethnicity in almost all areas of life.

Figure 1. Shows how CT residents identified themselves with respect to race on the 1990 and 2000 Census. Note that the category “Two or More Races” is new and Hispanics do not appear as a separate category because they may report any race.

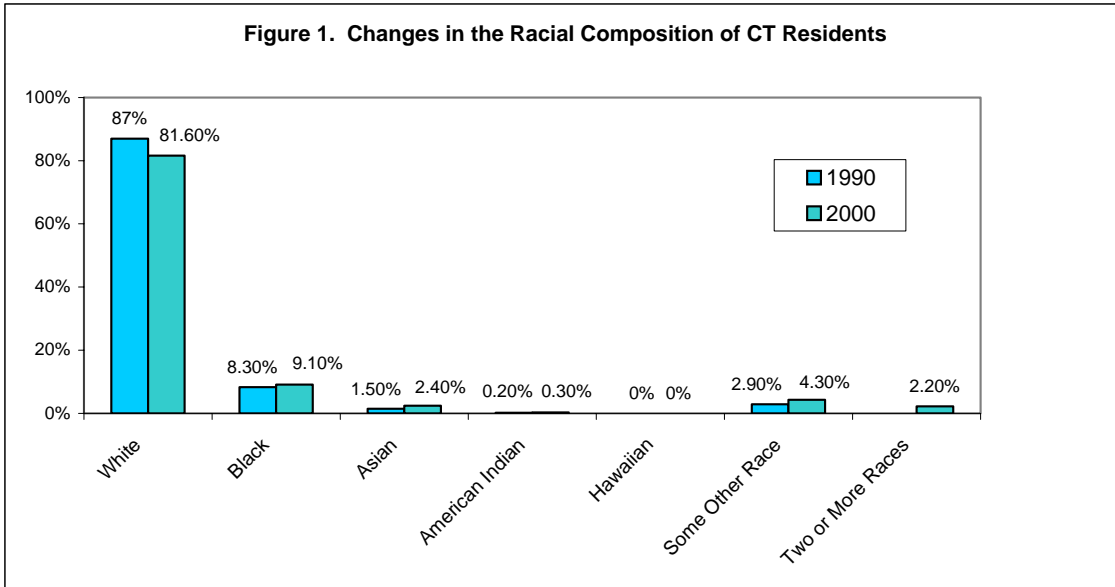
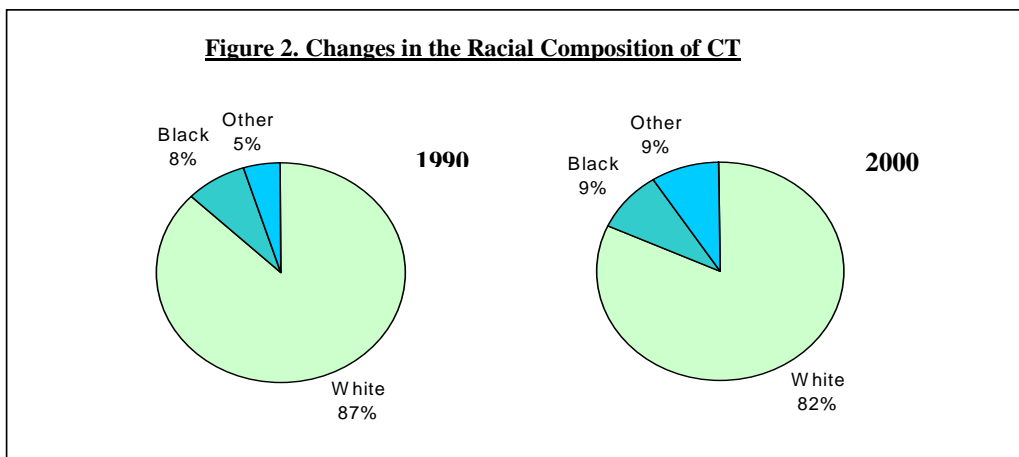
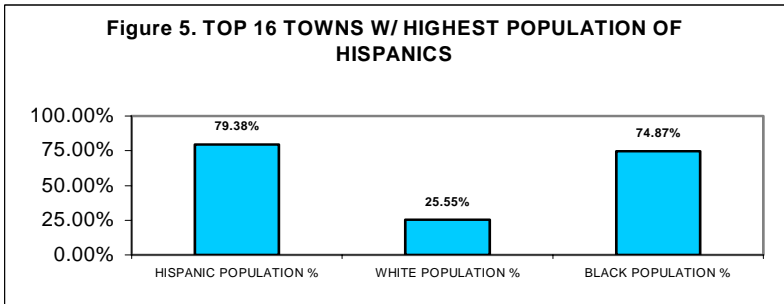
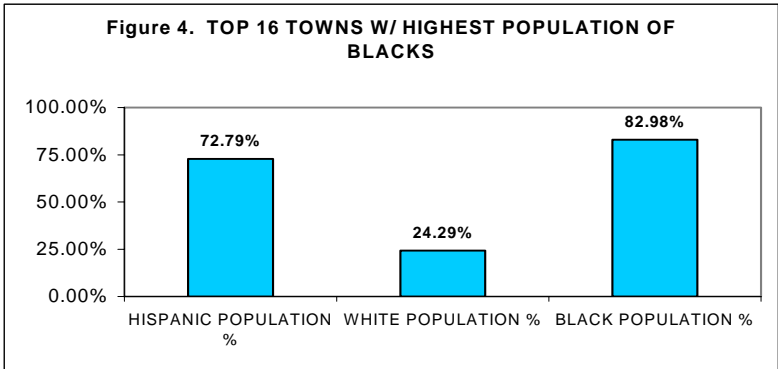
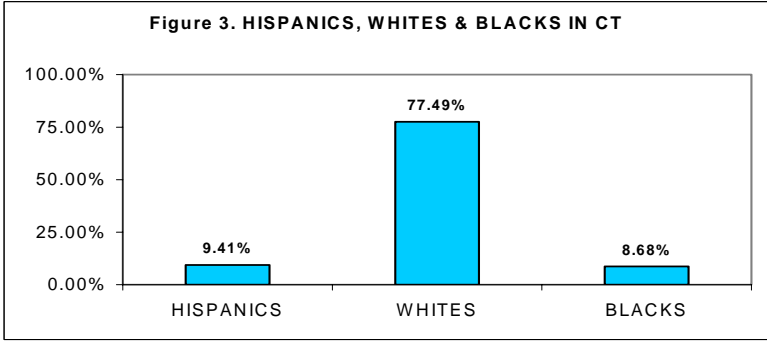


Figure 2 collapses all race categories on the 2000 Census except Black and White into the category labeled “Other.” Between 1990 and 2000, the White population in CT decreased by 5%, while the Black population increased by 1% and the “Other” category almost doubled from 5% to 9%.

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Geography, Race and Ethnicity in Connecticut

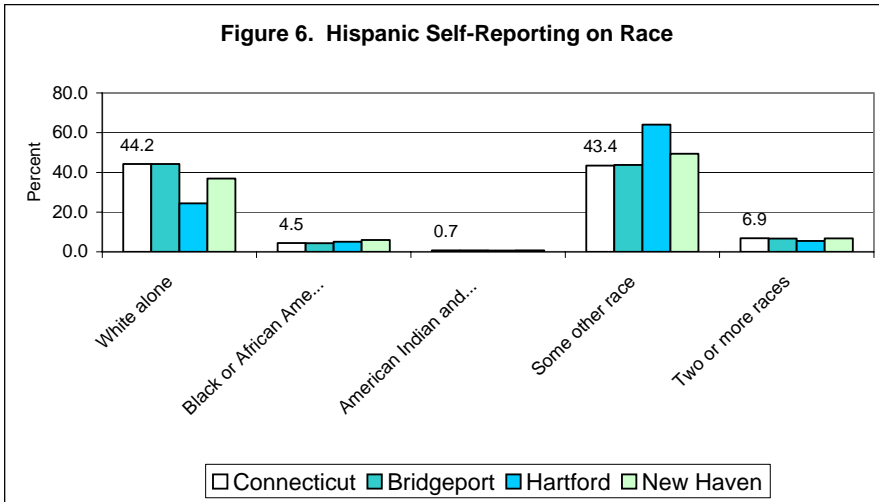
Connecticut’s minority population is heavily concentrated in the state’s urban centers.

- Overall, Non-Hispanic Whites account for 77.49 percent of the population of Connecticut while Blacks and Hispanics account for 8.68 percent and 9.41 percent of the population respectively.
- Although it is generally recognized that some town in the state have inordinately high concentrations of minority populations, a look at all towns in CT reveals a rather stark picture of the separation that exists among White residents and minority residents.

82.98 percent of Connecticut’s Black population lives in 16 towns. 79.38 percent of the Hispanics in Connecticut also reside in just 16 towns

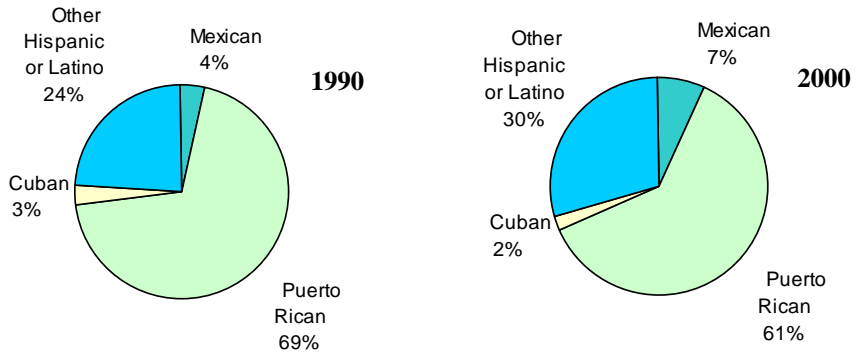
Connecticut Hispanics and Race

Hispanics are now the largest minority group in Connecticut, having surpassed Blacks on this past Census. Hispanics are not considered a racial group on the U.S. Census and they can report any race. Self-reporting of race by Hispanics varies across the state.

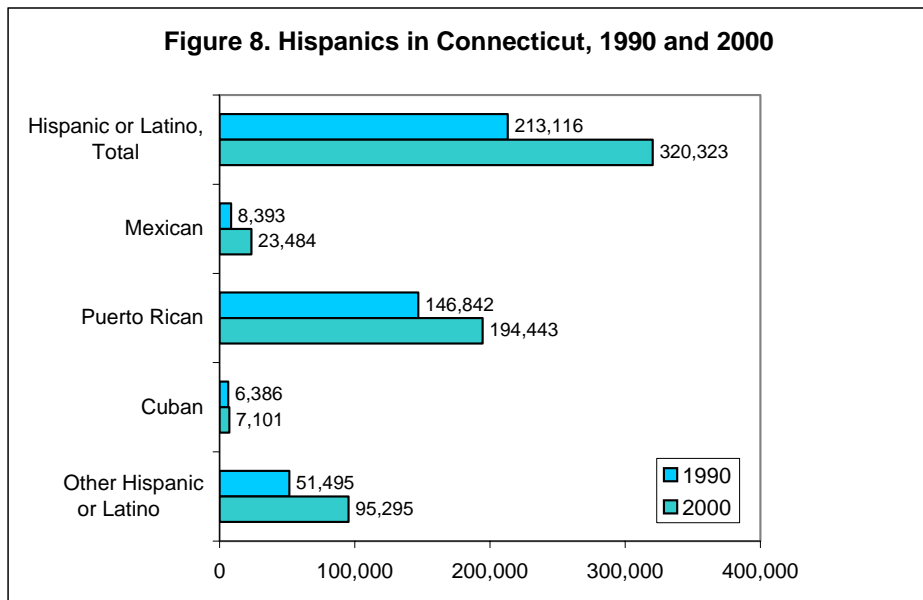


Puerto Ricans have been the largest Hispanic group in the state for over 30 years. In the last 10 years, the percentage of Puerto Ricans in CT has declined relative to other Hispanic groups.

Figure 7. Changes in the Composition of Connecticut's Hispanic Population

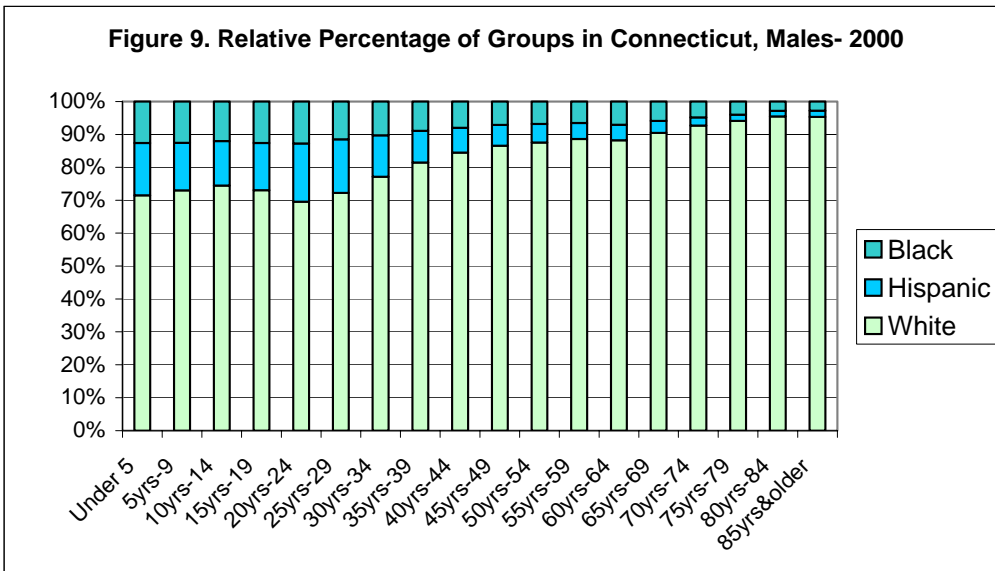


Although the Puerto Rican population grew between 1990 and 2000, the rate of growth for other Hispanic groups grew at a much faster rate among Connecticut's population.

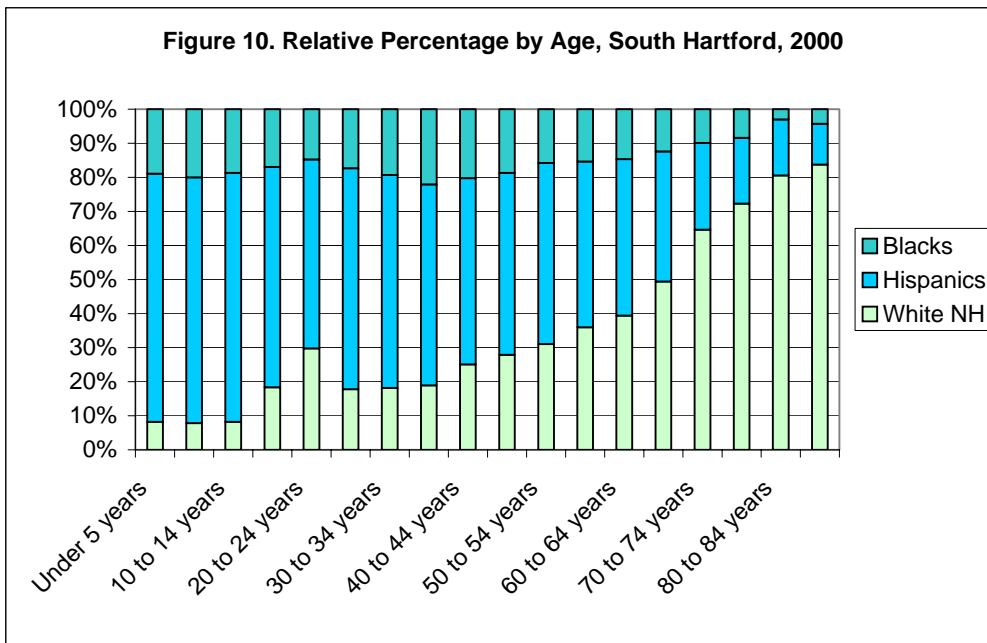


Race and Age

Although minorities make up 18 percent of the total population, the state’s Hispanic and Black population is significantly younger than the non-Hispanic White population. The median age of Hispanics in CT is 25.4, for Blacks it is 29.9 and for Non-Hispanic Whites it is 40.2 years.



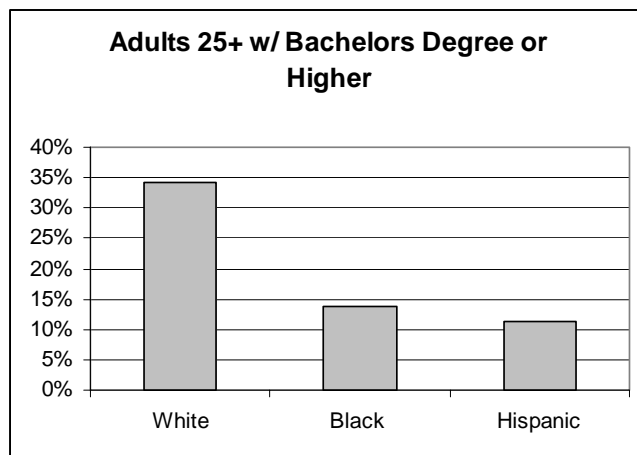
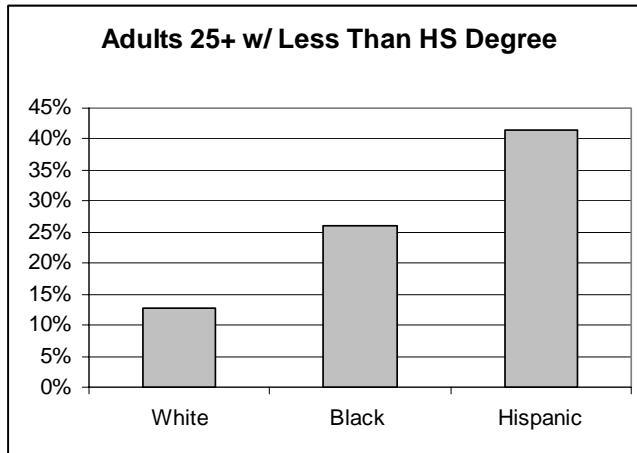
In urban areas, age distributions by race and ethnicity vary significantly from the statewide figures. Looking at South Hartford as an example, note the predominance of Hispanic youth.



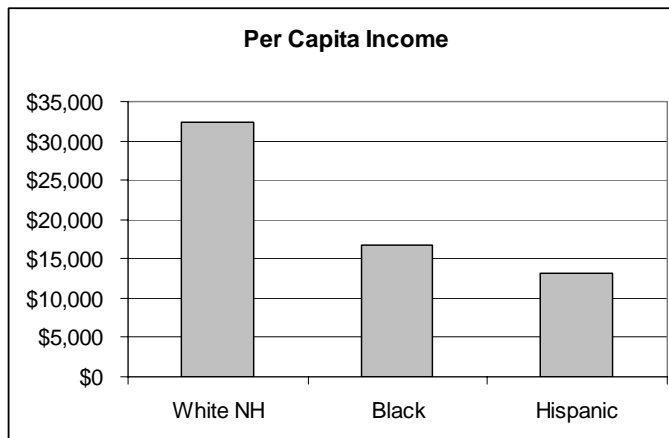
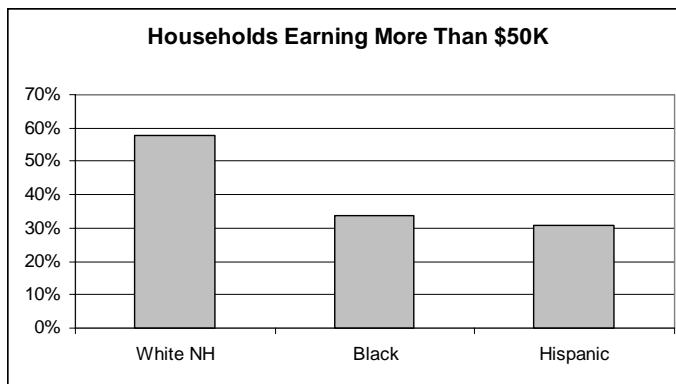
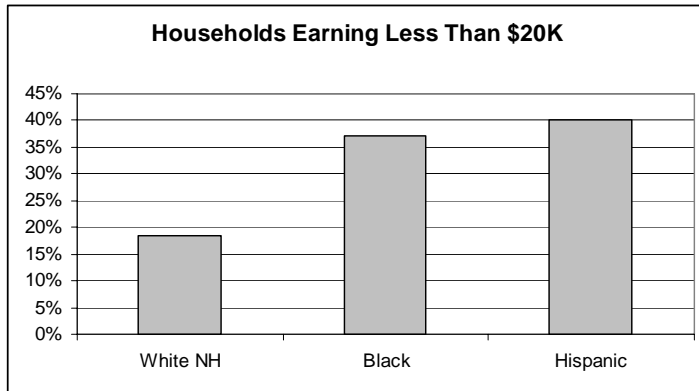
Approaching Criminal Justice through other Census Data

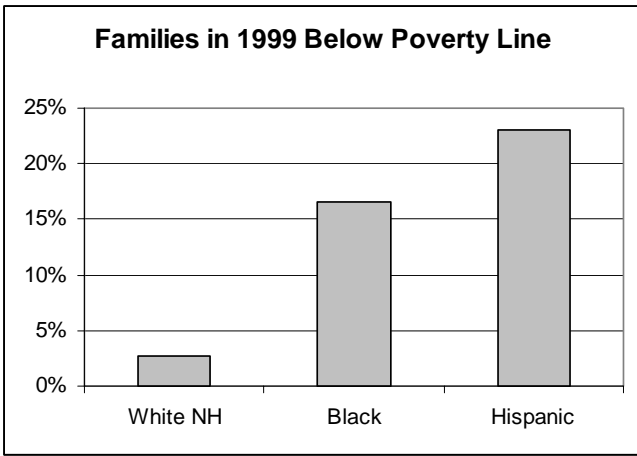
Although the following U.S. Census charts are not based on the defendants in this study, the charts were created to emphasize the great disparities that exist between the state's Caucasian majority population and Connecticut's two largest minority groups, African Americans and Latinos/Hispanics. These disparities are evident in almost every realm.

Educational Attainment of Adults

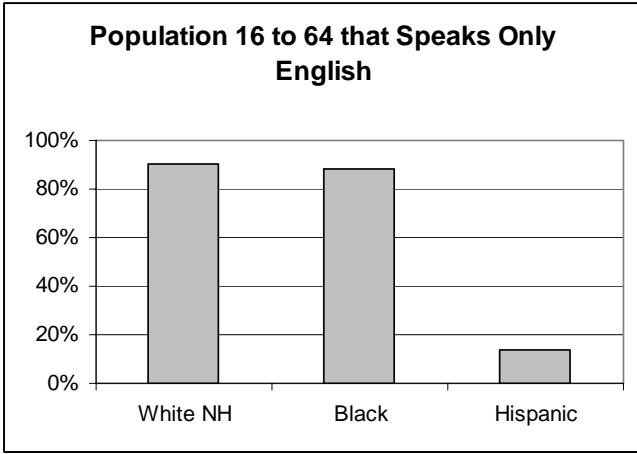


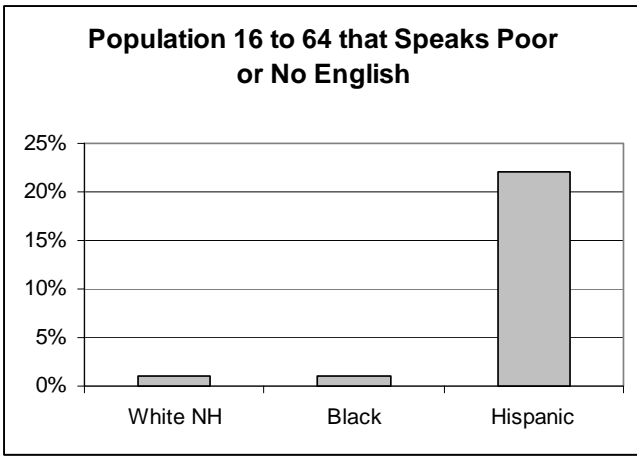
Earnings, Income and Poverty



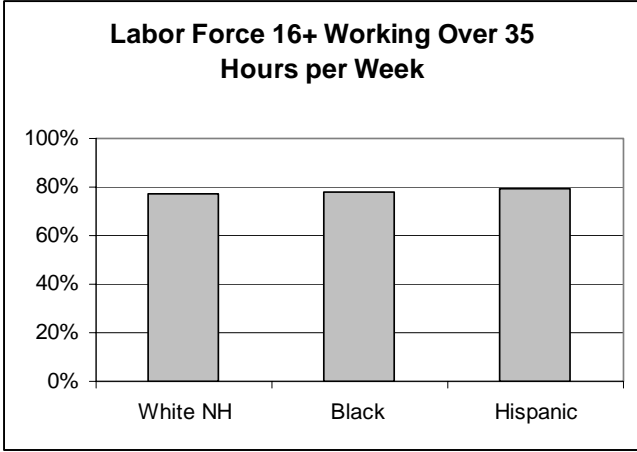


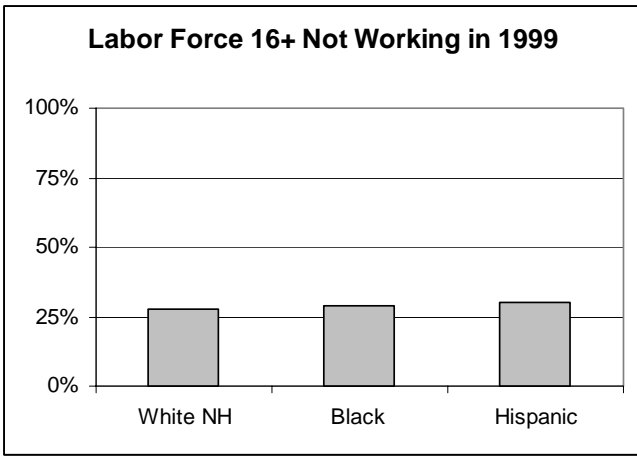
Language Issues



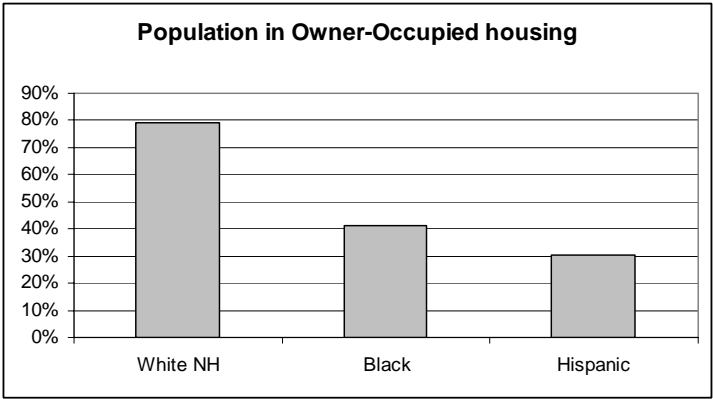
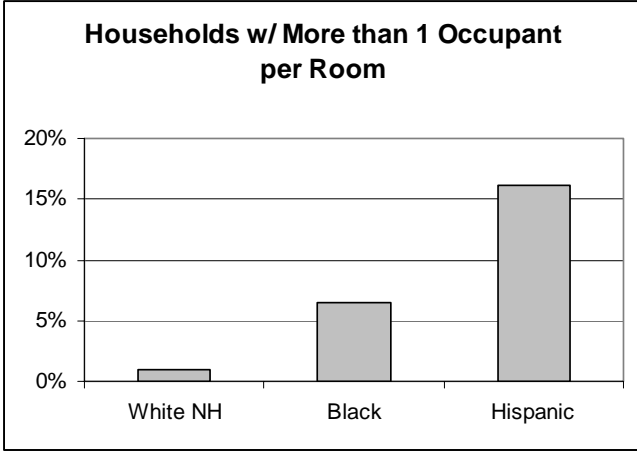


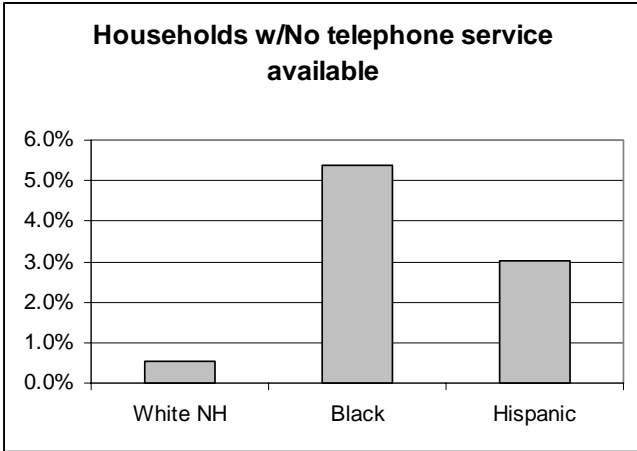
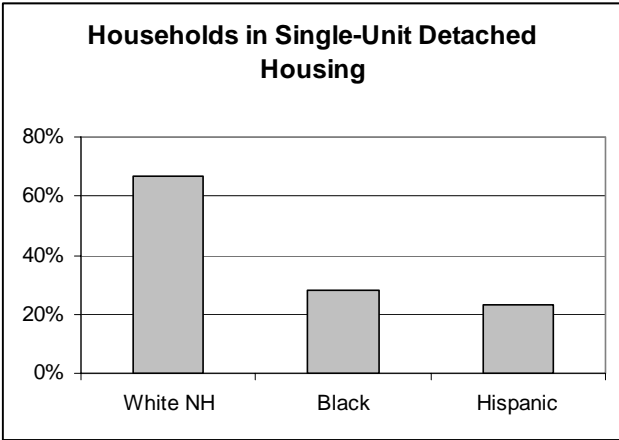
The Labor Force

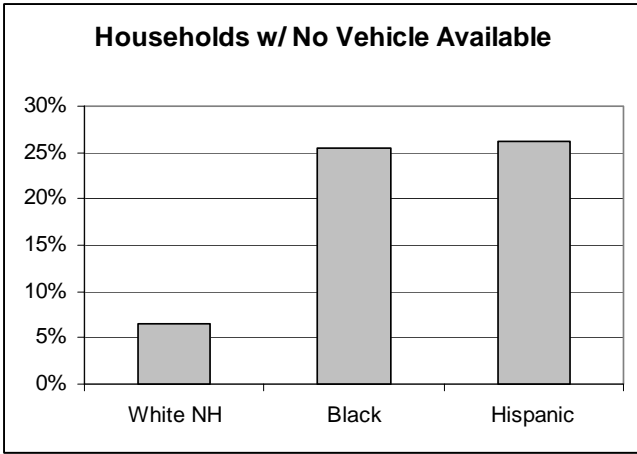




Housing







Section 2.D.3.
DEFENDANT POPULATION STUDY PROFILE

Following is a profile of the defendants included in the Commission pre-trial and sentencing studies:

1. A profile of the characteristics of defendants from the entire CRMVS file, and
2. Analysis of cases with bail data profile information.

1. Characteristics of defendants in the entire (CRMVS) file

Race/ethnicity

	Number	Percent
African American	22135	24.0
Caucasian	53546	58.1
Latino/Hispanic	16466	17.9
Total	92147	100.0

Sex

	Number	Percent
Male	68416	74.3
Female	23685	25.7
Total	92101	100.0
Missing	46	
Total	92147	

Age

	Number	Percent
Through 19	13975	15.2
20 – 29	30937	33.6
30 – 39	24934	27.1
40+	22301	24.2
Total	92147	100.0

2. **Analysis of cases with bail data profile information** for arrests in 2000 or 2001, disposed in 2001 (24.8 percent of all cases)

	Gender			
	African American	Caucasian	Latino/Hispanic	Total
Male	78.8%	76.7%	81.9%	78.5%
Female	21.2%	23.3%	18.1%	21.5%
	100.0%	100.0%	100.0%	100.0%
(N)	8112	9988	4733	22833

- In this group, Latinos/Hispanics are more likely to be male.

	Age			
	African American	Caucasian	Latino/Hispanic	Total
Under 18	5.5%	5.4%	6.2%	5.6%
18 - 20	12.3%	10.4%	15.5%	12.1%
21 - 30	31.8%	26.7%	38.8%	31.0%
31 - 40	30.7%	31.9%	26.8%	30.4%
Over 40	19.7%	25.5%	12.6%	20.8%
	100.0%	100.0%	100.0%	100.0%
(N)	8117	9993	4737	22847

- Latinos/Hispanics are younger (60.5 percent age 30 or younger, compared to 49.6 percent of African Americans and 42.5 percent of Caucasians).

	Years of School			
	African American	Caucasian	Latino/Hispanic	Total
Up to 8	2.2%	3.7%	13.2%	5.2%
9 – 11	34.9%	29.9%	46.7%	35.4%
HS grad	48.3%	45.6%	33.3%	43.9%
Some post HS	12.6%	15.8%	6.1%	12.5%
College grad	1.6%	3.8%	.6%	2.3%
Post College	.4%	1.2%	.1%	.7%
	100.0%	100.0%	100.0%	100.0%
(N)	6229	6703	3603	16535

- Latinos/Hispanics are least likely to have completed high school (59.9 percent).

Living Situation

Lives With--	African American	Caucasian	Latino/ Hispanic	Total
Alone	16.2%	19.4%	14.3%	17.2%
Guardian	.2%	.1%	.1%	.2%
Non-relative	21.7%	24.1%	24.7%	23.4%
Parents	29.9%	24.4%	28.6%	27.2%
Relative	14.8%	7.2%	13.0%	11.1%
Spouse	13.2%	15.6%	13.9%	14.4%
Missing	3.8%	9.2%	5.3%	6.5%
	100.0%	100.0%	100.0%	100.0%
(N)	8117	9993	4737	22847

- Caucasians are more likely to live alone, less likely to live with parents or relatives, and more likely to have this information missing.

Marital Status

	African American	Caucasian	Latino/ Hispanic	Total
Divorced	4.7%	13.0%	4.8%	8.4%
Married	9.6%	13.8%	10.3%	11.6%
Separated	2.9%	4.0%	3.4%	3.5%
Single	78.4%	59.4%	75.7%	69.5%
Widow	.6%	.6%	.5%	.6%
Missing	3.8%	9.3%	5.3%	6.5%
	100.0%	100.0%	100.0%	100.0%
(N)	8117	9993	4737	22847

- Caucasians are more likely to be married or divorced (least likely to be single); and most likely to have this information missing.

Median Personal Income in Zip Code

	African American	Caucasian	Latino/Hispanic	Total
Up to \$15,000	21.4%	2.6%	25.3%	13.4%
15,001 - 20,000	44.3%	17.7%	46.2%	32.3%
20,001 - 25,000	19.1%	36.7%	17.3%	26.9%
25,001 - 30,000	13.2%	27.9%	8.6%	19.2%
Over \$30,000	1.9%	15.1%	2.6%	8.2%
	100.0%	100.0%	100.0%	100.0%
(N)	5699	7525	3007	16231

Note that data are missing for 29 percent of cases over all due to missing zip code information. Data are missing for approximately 30 percent of African Americans, 25 percent of Caucasians, and 36 percent of Latinos/Hispanics.

- These differences are dramatic. 65.7 percent of African Americans, and 71.5 percent of Latinos/Hispanics, live in zip codes where the annual median personal income is \$20,000 per year or lower, compared to 20.3 percent of Caucasians.

Percent of Population in Zip Code Living Below Poverty Line in 1999 (Data from 2000 Census)

Data from the 2000 Census in Connecticut were merged with the CRMVS and bail files based on the zip code provided in the bail file. 74.5 percent of the cases with bail file information had zip code information. Summary data from the Census were obtained in an effort to investigate poverty and social class and included the following information about the zip codes in which the individual defendants reside:

- Percentage of people living below the official poverty line
- Median household income
- Median family income
- Median personal income
- Percentage of housing with five or more units
- Percentage of housing that is single family units
- The median year that housing was built
- Percentage of housing that is owner-occupied
- Median number of rooms per housing unit

Analysis of these variables by race/ethnicity showed that African American and Latino/Hispanic defendants were significantly and dramatically more likely than Caucasian defendants to live in zip codes with greater percentages of residents in poverty as measured in these ways. However, since these data describe characteristics of zip codes and not necessarily individual defendants, they could not be included as controls in multivariate analyses of sentencing or other court process issues. This is unfortunate, since it would be desirable to be able to disentangle potential disparities attributable to social class from those attributable to race or ethnicity.

	African American	Caucasian	Latino/ Hispanic	Total
0 - 5%	5.7%	40.7%	6.0%	22.0%
5.1 - 10%	18.4%	32.0%	14.2%	23.9%
10.1 - 20%	24.2%	16.2%	24.5%	20.6%
20.1 - 25%	29.3%	7.8%	26.5%	18.8%
Over 25%	22.4%	3.3%	28.7%	14.7%
	100.0%	100.0%	100.0%	100.0%
(N)	5699	7521	3007	16227

Note that data are missing for 29 percent of cases over all due to missing zip code information. Data are missing for approximately 30 percent of African Americans, 25 percent of Caucasians, and 36 percent of Latinos/Hispanics.

- Again, there are dramatic differences. 72.7 percent of the Caucasians live in zip codes where 10 percent or less of the population lived below the poverty line in 1999, compared to 24.1 percent of the African Americans and 20.2 percent of the Latinos/Hispanics.

Section 2.D.4.
UNDERREPORTING OF HISPANICS IN CONNECTICUT'S CRIMINAL JUSTICE SYSTEM

The Justice Education Center, working in conjunction with the Commission subcommittees, developed a plan to link several data sets used by the Judicial Branch to determine whether the number of minorities reported in the state, particularly Hispanics, were underrepresented in criminal justice data. Based on this analysis, the preliminary findings below indicate a dramatic underreporting of Hispanics in the system. Further analysis reveals the extent of this inaccuracy and its causes.

Assuming continued growth in the state's Hispanic population, the widespread misclassification of Hispanics will continue to create problems in the data unless existing problems in reporting race and ethnicity are corrected. Pervasive underreporting of Hispanics and the subsequent overreporting of other groups in the system must be addressed and remedied before any credible analysis of minority representation in the state's criminal justice system can be performed.

a. OVERVIEW OF FINDINGS

- Race/ethnicity data for defendants are not consistently applied to individual defendants. Over 10 percent of defendants with more than one docket/charge were assigned conflicting race/ethnicity values.
- The relatively low number of Hispanics in the system appears to be explained by pervasive misclassification of Hispanics, primarily as Whites.²³
- The purpose of this analysis of the CRMVS data was to identify whether large numbers of Hispanics were misclassified in the state's criminal justice data sets. It is clear that large numbers of Hispanics are in fact being misclassified.
- The single-character field used to store race data in the judicial system databases mixes two distinct types of information. This fact is probably the single most critical element in the pervasive misclassification of Hispanics in the system.
- The apparent misclassification of Hispanics as Caucasians varies significantly by town, suggesting that no uniform practice exists on how to complete the race/ethnicity field among justice system staff.
- The Department of Correction maintains its own internal data in which inmates self-identify themselves with respect to race and ethnicity. This appears to be the first encounter with the system in which defendants are able to correct inaccuracies with respect to their racial or ethnic background.

²³ Reporting Hispanics as Whites, Blacks or some other race is not technically wrong. Hispanics are an ethnicity, not a race. On the U.S. Census, for example, the race and ethnicity information is questioned separately allowing White or Black Hispanics, for example, to be distinguished from White or Black non-Hispanics. Considering that a single field is assigned for both race and ethnicity information in the Judicial data, it is not surprising that such pervasive misclassification apparently exists.

b. FULL STUDY

Methodology

Electronic data files were received from the CRMVS (Criminal Motor Vehicle System), the Bail Commission and the Department of Correction (DOC). Starting with an analysis of the CRMVS data, a database was created and an analysis was performed to evaluate the range of the data in each set. A reclassification of Hispanics using CRMVS data was undertaken by looking at records where more than one race/ethnicity was assigned to a defendant and by testing the accuracy of the race/ethnicity field in the remaining data. For defendants with multiple cases, where race/ethnicity was recorded inconsistently across cases and at least one case identified the defendant as Hispanic, those with Spanish surnames who lived in towns with a majority of residents self-identifying as Hispanic were coded as Hispanic.

As previously reported, during early checks of the data, the number of Hispanics identified in the data appeared lower than expected. Hispanics are now the largest minority group within the state and share many general similarities with Connecticut's Black population. It was assumed that, as the analysis progressed, the apparent discrepancy would be explained.

Criminal Motor Vehicle System (CRMVS) data

The CRMVS Master file contains 377,083 records. Each record contains information for each docket disposed in 2001. Individuals may appear in the Master file numerous times, since a defendant may appear on more than one docket or may have been arrested more than one time or on more than one case.

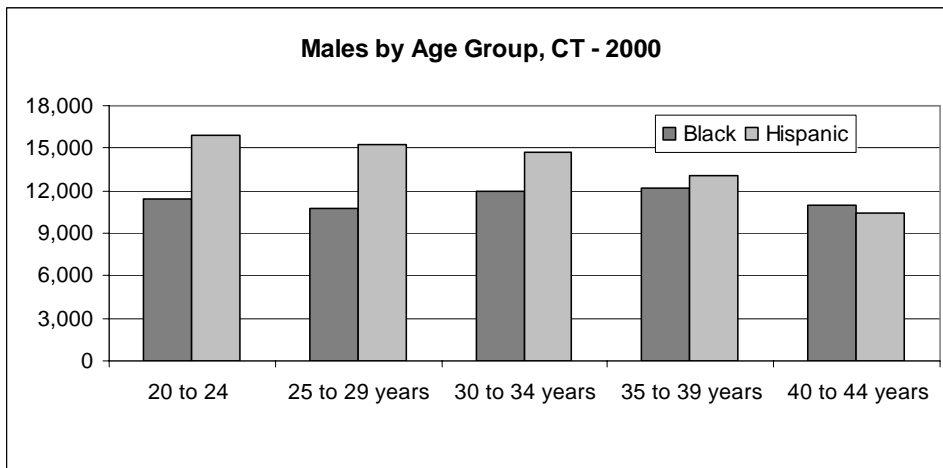
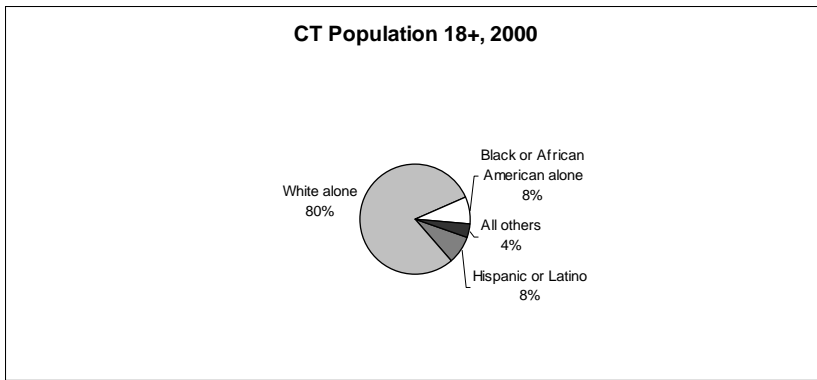
The proposed analysis was based on the representation of minorities within the criminal justice system. Records containing data in the race field were separated from the file. Of 377,083 records in the Master file, 174,101 (46 percent) had no race/ethnicity information attached.²⁴ Of the 174,101 records with no race marker, 125,600 of these records were reported as infractions, 46,800 were identified as violations and less than 300 appeared as either felony or misdemeanor charges. The remaining 202,982 records in the Master file had race data associated with them.

In order to evaluate the rates at which minority defendants passed through the system, it was necessary to isolate unique defendants from among the 202,982 records in the master file. 196,504 of the records in the file had complete data for both the defendant's race and social security number. Social security numbers and last names were cross tabulated against race to generate a list of unique defendants.

The cross tabulation returned 111,500 records, each of a unique defendant. Of these, 24,757 defendants appeared more than once in the Master file due to their appearance on more than one docket. On analysis it was discovered that 10.9 percent of these individuals were assigned different race and ethnicity values on separate dockets.

A significant number of multi-docket defendants were found to have ambiguous race/ethnicity identities. It is important to note that the number of unambiguous Hispanics seems extremely small considering the size and circumstances of Hispanics in the state.

²⁴ Race information in the CRMVS is kept in a one-character text field. The choices available in the data set are: A for Asian, B for Black, C for Caucasian, H for Hispanics, and O for Other.



The state's Hispanic males outnumber the state's Black males in every age group. The above chart includes a comparison of males between the ages of 20 and 39 as an example. People in these age groupings are more likely to be involved with the criminal justice system.

To test the accuracy of the race/ethnicity field in the remaining data, the records of the remaining 86,743 single-charge defendants were analyzed. Table 1 shows the distribution of defendants by race among unique defendants in the master file.

Race category	Number	Percent
All	86,743	
Asian alone (all others null)	731	0.8%
Black alone (all others null)	20,655	23.8%
Caucasian (all others null)	57,227	66.0%
Hispanic alone (all others null)	7906	9.1%
Other alone (all others null)	224	0.0%

Once again, the number of Hispanics in the Master record was much lower than expected, although the size of the Hispanic population in the state is slightly larger than the African American population and both populations share similarities such as levels of educational attainment, rates of home ownership, residence, and families in poverty. The rate at which Hispanics appear in the data was not even half the rate for Blacks. This raised questions about the veracity of the race/ethnicity data assigned to a large number of defendants.

In order to check the accuracy of the race/ethnicity field with respect to Hispanics, a query of the 86,743 records was run against a database of Spanish surnames. Matching against Hispanic surnames is an acceptable method for isolating large numbers of potential Hispanics in this type of data. The Spanish Surname database that was used contains 12,497 surnames that are commonly associated with people of Spanish/Hispanic/Latino ancestry. The query against the Spanish surname database returned 16,654 defendants. Table 2 lists the frequency at which individuals with Hispanics last names were found in the data.

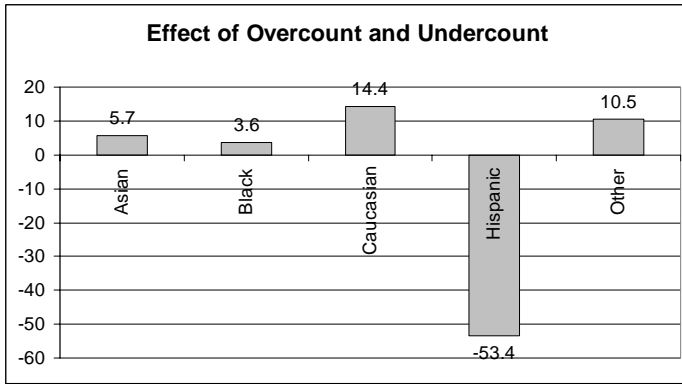
Category	Original Number	Possible Hispanics w/ Spanish surname	Percent
Total records	86,743	16,654	19.2%
Asian w/Spanish surname	731	42	5.7%
Black w/Spanish surname	20,655	737	3.6%
Caucasian w/ Spanish surname	57,227	8,259	14.4%
Hispanic with Spanish surname	7,906	7,593	96.0%
Other w/ Spanish surname	224	23	10.3%

Table 2 reveals that:

- The Spanish surname data could match Hispanics based on the 96 percent agreement rate,
- Over 9,000 defendants who were identified as non-Hispanic have Spanish surnames, raising the possibility that many of them are probably Hispanic, and
- Most of these presumed misreported Hispanics are reported as Caucasians.

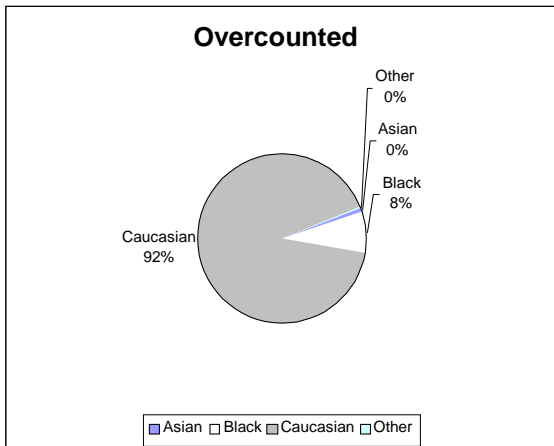
Table 3 lists the effect that the misclassification of Hispanics, based on this analysis, has on the system.

Race/Ethnicity	Original Count	Revised Count	Change	Over/Under count
Asian	731	689	-42	5.7%
Black	20655	19918	-737	3.6%
Caucasian	57227	48968	-8259	14.4%
Hispanic	7906	16967	+9061	-53.4
Other	224	201	-23	10.5



In order to test whether the presumed Hispanic defendants in this analysis are actually Hispanic, the defendants' towns of residence were compared with the general populations residing in these towns. This analysis showed that most of these individuals, in fact, resided in towns with significant Hispanic populations. Analysis of the towns in which these presumed Hispanics were charged showed that the rates at which Hispanics were apparently misclassified varied significantly by town across the state.

Assuming that the Spanish surname database is a reliable way to identify Hispanics in the data, it appears that a pervasive error exists in the data with respect to the race/ethnicity assigned to defendants. In the CRMVS data, White defendants appear to be over counted by 14.4 percent. Hispanics, on the other hand, seem to be undercounted significantly, by over 50 percent. Ninety-two of misreported Hispanics were identified as White in the data.



In analysis prepared for the Arrest and Investigation Subcommittee, misdemeanor and felony charges filed against Caucasian defendants were analyzed. From 108,000 charge records filed against Caucasians, over 9,000 records had common Hispanic surnames. These records were sorted by town and then compared against charges filed in each town against Hispanics. The result of this analysis shows that misreporting varies widely by town. This fact further complicates the analysis of the data.

Section 2.E

NON-COMMISSIONED STUDIES

There are a number of studies which have been completed on various aspects of Connecticut's criminal justice system, including the recent Commission on the Death Penalty. The studies and their recommendations that are in the process of being reviewed by the Commission include:

- i. Prison and Jail Overcrowding Commission, Reports to the Governor and Legislature (2004)
- ii. James Austin and Michael Jacobson, Building Bridges: From Conviction to Employment. A Report of the Council of State Governments, Criminal Justice Programs (Hartford, 2003).
- iii. The Alternatives to Incarceration Advisory Committee, A Report to the Governor and Legislature. (February 1, 2004).

Of particular interest to the Commission was the recent report of the state commission on the death penalty whose charge, in part, overlaps with the charge of this commission. The review of the Commission on the Death Penalty follows.

2.E.1

COMMISSION ON THE DEATH PENALTY

Public Act 00-154(b)(6) charged the Racial and Ethnic Disparity Commission to:

“Examine the implementation of policies and procedures that are consistent with policies of the American Bar Association intended to ensure that death penalty cases are administered fairly and impartially in accordance with due process, to minimize the risk that innocent persons may be executed and to eliminate discrimination in capital sentencing on the basis of the race of either the victim or the defendant.”

On July 6, 2001, the General Assembly created “a Commission on the Death Penalty to study the imposition of the death penalty in this state.” Public Act No. 01-151 (the “Death Penalty Act”), Section 4(a). The Death Penalty Act required the Commission to study fourteen aspects of the death penalty and, by January 8, 2003, “report its findings and recommendations, including any recommendations for legislation and appropriations, to the General Assembly.” Commission members were appointed and began their work in December of 2001.

The Commission was formed when a death penalty moratorium failed in the House of Representatives in a close vote in 2001. The Connecticut Commission on the Death Penalty made recommendations on how to ensure fairness, justice, equality and due process in the administration of the death penalty. The study involved 14 aspects of capital punishment, including: financial costs; disparity based upon race and other demographic factors of defendants and victims; disparity based upon the judicial district in which the

crime was committed; training and experience of prosecutors and defense counsel; delays in the appellate and post-conviction process; victims' rights; and safeguards to protect against execution of the innocent.

The Commission represented a cross-section of views and experiences with the death penalty from both within and outside the legal community. The Commission's January 2003 report to the General Assembly took no position on capital punishment but essentially recommended that "best practices" be adopted to ensure that Connecticut's death penalty is fair.

A bill raised in a 2003 session of the Judiciary Committee incorporated all of the Death Penalty Commission's recommendations, including videotaping of police interrogations, eyewitness identification procedures, proportionality review of death sentences, a Death Penalty Authorization Committee of State's Attorneys, and a continuation of the policy of not allowing victim impact testimony during the course of the penalty phase of a capital trial. However the bill that ultimately passed the Judiciary Committee did not include the most significant recommendations. Notably, videotaping of interrogations, the most important recommendation for protection against wrongful convictions, failed in committee by a vote of 21-17, with strong opposition from law enforcement. Proportionality review and the Death Penalty Authorization Committee were also removed. The final bill eventually died on the House calendar without a vote.

Legislation on DNA was passed in that session and signed by the Governor. It included innocence protections modeled after the Rhode Island statute that provides a defendant with the right to counsel for purposes of pursuing DNA testing and subsequent court procedures for obtaining a new trial. It also established an Advisory Commission to investigate wrongful convictions.

No bills were raised in the current legislative session with regard to recommendations of the Commission.

Section 3
RECOMMENDATIONS/ NEXT STEPS

- A. Police
- B. Pre-Trial
- C. Jury
- D. Sentencing
- E. Correctional Population
- F. Juvenile Justice System
- G. Face of the System

3.A. POLICE

Data Limitations

Of 102 departments statewide who received the police survey, 78 responded. Although the response was better than for most mailed surveys, additional input from the remaining departments, as well as more detailed information regarding the types of services departments would like to employ, will allow more targeted, effective, policy development.

Recommendations/Next Steps

The Commission recommends the following next steps:

- Collect data from departments who did not respond.
- Conduct follow up interviews regarding specific types of alternatives that departments would like to use.
- Undertake further analysis of what proportion of incidents result in arrest and how incidents resulting in arrest compare to incidents where no arrests were made, *e.g.*, collecting and analyzing samples of incident reports from selected municipalities where incident reports are available electronically.
- Endorse the Connecticut Justice Information System (CJIS) governing board's proposed revision to the Uniform Arrest Report. This revision would include one additional field of yes/no for Hispanics, ensuring that the designation of Hispanic is an ethnic designation rather than a racial one and conforming the report to the U.S. Census. The Commission further recommended that police departments request self-reported information of arrestees on race and ethnicity for reporting accuracy as part of the paperwork documentation.

3.B. PRE-TRIAL

Data Limitations

There are three primary limitations in the analyses that can be conducted with available data:

- 1. Lack of clear data on criminal history.** The bail instrument provides some evidence in its summary measures of prior record of convictions and Failure To Appear(s), but the variables do not indicate the number of convictions or FTAs, or their severity (beyond felony or misdemeanor). Criminal history data could be obtained from criminal records manually, but that is a time-consuming process.
- 2. Inconsistent data entry for specific measures on the bail instrument and total bail score.** Some gaps could be filled in by extracting the information from paper bail records, but this, again, would be time-consuming and costly (although less costly than complete collection of criminal history data).

3. Lack of direct measures that describe social class. Education is the best indicator available, and education data are missing for over 20 percent of the bail sample. Employment and income data are even less consistently entered.

Additional limitations include such potentially influential factors as defendants' affect and demeanor, and input from victims, advocates, attorneys and other personnel present in court.

Recommendations/Next Steps

In November 2003, the State implemented a new bail instrument that eliminated several fields, including many of the non-crime related variables. The Commission recommends:

- Analysis of data from the new bail instrument which was implemented in November 2003. Data should be obtained electronically after six months or more of implementation and analyzed to provide a comparison with the prior instrument. The comparison should include racial/ethnic differences in scores on each item, as well as the relationship between total scores and the recommendations made by the bail commissioners and ultimate court orders.
- Preliminary analysis of data collected after six months or more of the implementation of the additional reporting filed on the uniform arrest reports and self reporting police forms.

3.C. JURY

Recommendations/Next Steps

The Commission recommends the following:

- Identify and implement the most effective procedure(s) to collect information on race and ethnicity of prospective jurors. Evaluate responses over time to determine racial and ethnic distributions.
- In 2002 the Commission initiated a series of interviews with administrative judges and court staff around the state regarding minority participation in the jury process. The consistent messages that surfaced regarding the potential difficulties around minority participation were similar throughout the state. Circumstances which preclude participation include: full-time care for children or the elderly; the costs to day laborers, part-time and per diem workers of workdays lost because of jury duty (although there is a reimbursement of \$50/day); employer compliance, or lack thereof, with existing statutes for jury duty; and the impact of these issues on minority communities, particularly Latino/Hispanic populations, due to such factors as the transience of the population and language barriers. Consequently, the Commission proposes the following efforts to encourage jury participation and to clarify penalties for non-compliance including:
 - Support legislation to insure that permanent part-time employees are compensated by their employers for jury service;
 - Review and make recommendations consistent with the effects of P.A. 03-202 which provides for Department of Labor enforcement of wages paid to jurors for jury service;
 - Urge the Judicial Branch to develop and institute a program to proactively improve access to transportation for prospective jurors and / or selected jurors;
 - Examine the jurisdictions currently providing child care to determine costs and impact on the numbers of jurors who serve; and
 - Repeal existing criminal sanctions for juror non-compliance.

- Further develop and expand Judicial Branch initiatives to improve public perception and public understanding of jury service. To that end, the Commission will:
 - Review and make recommendations based on the evaluations of the Judicial Branch’s outreach efforts and Connecticut Courts school curriculum, and similar national efforts in order to support the refinement and expansion of jury education programs;
 - Review juror comments on the impact of the Judicial Branch’s juror appreciation efforts in Hartford and data on similar nationwide efforts in order to support the enhancement and expansion of this program.

- Establish a public / private partnership between the Commission and community and civic organizations for a public information campaign emphasizing the necessity of participation in jury duty.

- Recommend that the Judicial Branch undertake efforts to assure that a high level of diligence is employed, wherever possible, to conceal the incarcerated status of detained defendants from juries.

- Fully fund interpretive services for defendants and witnesses.

3.D. SENTENCING

Data Limitations

The data limitations for the study of sentencing determinations are similar to those encountered in the pre-trial analysis, namely the lack of clear criminal history data or potentially influential social-economic data in CRMVS and bail risk instrument electronic records. As described in more detail in section 2.B.2, these limitations include a lack of clear data on criminal history, inconsistent data entry for specific measures on the bail instrument, and lack of direct measures that describe social class. The lack of data about criminal history, however, provides even more serious limitations for study of the sentencing stage. Research studies have consistently found that criminal history is a key and important element to understanding the dynamics of the criminal justice system.

Recommendations/Next Steps

The following next research steps are recommended:

- Undertake manual data retrieval from the bail instrument for a representative sample of cases for which bail data are available of criminal history-related material (such as prior felony convictions, prior record, probation sentences, and other pending cases) as well as information that measures social and class-related items (such as education, employment and income). This will provide data for analyses that measure criminal history more precisely, and will help to separate the potential competing influences of race/ethnicity and social class.

- Undertake manual data retrieval of complete criminal history information from the COLLECT system maintained by the Department of Public Safety. Such information is available to court personnel and can influence decision-making. It is more complete than the summary information contained in the bail instrument – both the one used in 2000 and 2001 and the revised instrument recently implemented. These instruments provide summary information, such as whether or not a defendant has prior felony or misdemeanor convictions, and if so, whether there were one or two,

or more than two. Actual counts of convictions and the types of charges involved will contribute significantly to understanding sentencing.

- Obtain electronic data from the Adult Probation On-Line Information system (APOLIS) to investigate potential differences in how violations of probation are handled. An analysis of data from the APOLIS system will also provide more data about differences in conditions associated with sentences to probation such as reporting to an Alternative Incarceration Center or drug treatment program.
- Conduct a ‘snap-shot’ analysis of individuals in Department of Correction (DOC) facilities sentenced to three years or less in order to determine specific populations that could be targeted for alternative sentencing. Also obtain data on individuals in DOC custody on a given day broken down by gender, race, ethnicity, severity of charge, criminal history, and the fifteen most frequently convicted offenses.
- Undertake a judicial decision-making study. The Commission has agreed to undertake a study of judges’ considerations in pretrial and sentencing decision making. This study will look at the role victims, advocates, judicial experience on the bench, and defendant demeanor play in judicial determinations. The Commission staff will propose a methodology for the study.

3.E. CORRECTIONAL POPULATION

Recommendations/Next Steps

With regard to reducing the number of African-Americans and Latinos/Hispanics comprising the pretrial and sentenced population of correctional facilities, the Commission recommends:

- Increase in funding to community-based alternative sanctions and transitional services that provide support to evidence-based, culturally competent, gender specific services proven to reduce recidivism.
- Review and further develop culturally sensitive programming for male and female minority offenders in the custody of the Department of Correction, the Department of Children and Families, and the Court Support Services Division of the Judicial Branch.
- Recommend that the Department of Correction, Court Support Services Division of the Judicial Branch, and the Department of Mental Health and Addiction Services develop a semi-annual report that identifies the race, ethnicity, and gender of individuals who are:
 - Sentenced to probation;
 - Receiving alternative sanctions;
 - Processed through mental health court diversion programs;
 - Sentenced to incarceration;
 - Incarcerated due to parole violations.

This semi-annual report should also contain evidence of the parties’ joint efforts to remedy instances of disparity in the above five identified post-conviction outcomes. The final report (not draft) should be issued to the members of this Commission, the legislative leaders, the Commissioner of the Department of Correction, Commissioner of Department of Mental Health and Addiction Services, the Executive Director of Court Support Services Division, the Chief Court Administrator, and the Office of Policy and Management.

3.F. JUVENILE JUSTICE SYSTEM

Because of the importance of early interventions and appropriate support services and sanctions for young people, and because the point of entry to the justice system is where racial/ethnic disparity escalates, the Commission's recommendations focus on two areas: i) aggressive prevention efforts; and ii) exploration of diversions from court that encourage retaining juveniles in their communities whenever appropriate and possible. This is especially cogent, based on the findings of the Commission's 2003 police survey in which responding departments expressed a need for increased diversion services for young people, especially those with behavioral/mental health needs. The subcommittee's recommendations are to:

- Support the development of urban Juvenile Review Boards (JRB) in Hartford, New Haven, Bridgeport, and Waterbury, in an effort to reduce the number of children of color entering the juvenile justice system by diverting them to community-based alternatives. At this time JRBs exist primarily in suburban settings. Funding for urban JRBs should be issued from the relevant municipality, the Department of Children and Families, the Court Support Services Division of the Judicial Branch, the Connecticut Department of Correction, the State Department of Education, and philanthropic organizations.
- Review the Juvenile Justice Advisory Committee study on "Overrepresentation of Minorities in the Juvenile Justice System" and make recommendations based on those findings.
- Support i.) programs to divert children who are identified as having behavioral needs from the juvenile justice system to programs that provide appropriate treatment, including specialized treatment for children with a history of trauma; and, ii.) efforts to coordinate with the KidCare program of the Department of Children and Families (DCF) and other evidence-based, culturally competent, gender specific initiatives (based on the findings of the Commission's 2003 police survey in which responding departments expressed a need for increased diversion services for young people, especially those with behavioral/mental health needs).
- Conduct an analysis to determine if there is disparity in the racial composition of children serviced by the mental health system compared to children serviced through the juvenile justice system.
- Develop and recommend funding for alternative program interventions for FWSNs (Families With Service Needs) and YICs (Youth in Crisis). Program interventions might include expansion of emergency shelters, priority access to specialized residential beds, emergency foster care placements, supportive housing, home and community based services, intensive case management, therapeutic foster care, intensive family support and respite services, and crises response teams.
- Endorse and review the efforts of the Department of Children and Families and the Court Support Services Division of the Judicial Branch to develop a juvenile justice plan having as its goal the reduction of the number of African-Americans and Latinos/Hispanics in the juvenile justice system, and to include community service options in lieu of detention for juveniles arrested.

- Plan, with time tables, for the further development of existing curricula for training of employees and state contractors at all levels of the juvenile justice system on issues of cultural competency and strategies to address disproportionate minority confinement.
- Establish a plan, with time tables, to address any barriers to family involvement in alternatives to incarceration.
- Promote, establish and/or expand truancy reduction programs in schools, the Department of Children and Families, the Office of the Child Advocate, and the Court Support Services Division of the Judicial Branch.
- Recommend that the Department of Children and Families, the Office of the Child Advocate, and the Court Support Services Division of the Judicial Branch promote restorative justice models for juveniles.
- Recommend that the Department of Children and Families and the Court Support Services Division of the Judicial Branch develop a semi-annual report that identifies the race, ethnicity and gender of children who are:
 - Detained on a pre-trial basis;
 - Receive court based assessments; juvenile justice intermediate evaluations; and Riverview evaluations;
 - Sentenced to probation;
 - Committed as delinquent and placed in residential treatment;
 - Committed as delinquent and placed in the Connecticut Juvenile Training School.

This semi-annual report should also contain evidence of the parties' joint efforts to remedy instances of disparity at all five of the decision points identified above. The final report (not draft) should be issued to legislative leaders, the Commissioner of Department of Children and Families, the Executive Director of Court Support Services Division of the Judicial Branch, the Office of Policy and Management, and the Office of the Child Advocate.

- Monitor any new initiatives, including the recent joint strategic planning process between DCF and CSSD.

3.G. FACE OF THE SYSTEM

Recommendations/Next Steps

The Commission will request reports from relevant agencies in order to evaluate next steps. To that end, the Commission recommends:

- Encourage an increase in the numbers of minority employees visible at all levels of the criminal justice system. The Commission will request and collect statistics and information on staff composition in the following organizations: Department of Correction, Public Defender Services, Judicial Branch, Division of Criminal Justice, Department of Children and Families, Connecticut Bar Association, State Marshals, and private agencies under contract with these organizations for providing criminal justice services.

- Promote aggressive multi-lingual/cultural recruitment and hiring in the Department of Correction, Public Defender Services, Division of Criminal Justice, Department of Children and Families, Judicial Branch, Connecticut Bar Association, State Marshals, and private agencies under contract with these organizations for providing criminal justice services.
- Increase opportunities for skills enhancement in order to encourage promotions of current minority employees in these organizations.
- Solicit a summary of all efforts to date for the recruitment, retention, and promotion of minority employees and appointees, including opportunities for skills enhancement from the Department of Correction, Public Defender Services, the Division of Criminal Justice, Department of Children and Families, the Judicial Branch, the Connecticut Bar Association, the State Marshals, and private agencies under contract with these organizations for providing criminal justice services.
- Examine and make recommendations assuring the implementation of comprehensive, mandatory cultural sensitivity education and training initiatives for personnel at all levels of the criminal system that address the special issues and concerns of minorities interfacing with the criminal justice system. These curricula should include specialized diversity training for management staff, and should consider and measure outcomes.
- Plan and develop with time tables education initiatives that address the gaps between perception and reality about racial and ethnic disparity within the system.