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The Nebraska Minority and Justice Task Force

Final Report

January 2003

SJI

State Justice Institute

The Nebraska Minority and Justice Task Force

Final Report
January 2003

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Thomas Jefferson once said that all men are created equal….We know all men are not created equal in the sense some people would have us believe – some people are smarter than others, some people have more opportunity because they are born with it, some men have more money than others…some people are born with gifts beyond the scope of most men.

But there is one way in this country in which all men are created equal – there is one human institution that makes a pauper the equal of a Rockefeller, the stupid man the equal of an Einstein, and the ignorant man the equal of any college president. That institution is the court. It can be the Supreme Court of the United States, or the humblest justice of the peace court in the land, or this honorable court which you serve. Our courts have their faults, as does any human institution, but in this country our courts are the great levelers, and in our courts all men are created equal.

Quote from Atticus Finch's closing argument in Harper Lee's ***To Kill a Mockingbird***

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The Nebraska Minority and Justice Task Force

Task Force Chairs

(listed alphabetically)

John M. Gerrard, J.D., is a judge on the Nebraska Supreme Court. He was appointed by Gov. Ben Nelson in April 1995. Judge Gerrard has served as chair of the Supreme Court's Gender Fairness Implementation Committee since 1996 and is the court's representative on the state's Judicial Branch Education Advisory Committee. Prior to his appointment, Judge Gerrard was a partner in Gerrard, Stratton & Ptak, P.C., in Norfolk, where he was in private practice for 14 years.

Daniel Harris, Jr., J.D., is Vice President and Associate General Counsel for Mutual of Omaha Insurance Company. He serves on Mutual of Omaha's Diversity Planning Workgroup and as its representative on the State Bar of Wisconsin Diversity Counsel Program. He is a past chairman of the Board of Directors for the Nebraska Urban League and a past member of the Legal Aid Society Board of Directors and Development Counsel. He is a Nebraska State Bar Foundation Fellow, past president of the Midlands Bar Association, and member of the National Bar Association.

Harold L. Rock, J.D., is a founding partner of Kutak Rock, L.L.P. He is a member of the American Bar Association President's Advisory Council on Diversity; former chair of the Nebraska Bar Commission; member of the ABA Legal Education Law School Accreditation Committee; past member of the American Bar Association Immigration Pro Bono Projects Committee and the National Equal Justice Library Board of Directors; chair, Nebraska Indigent Defense Task Force; and president, Omaha Legal Aid Society.

Task Force Members

(listed alphabetically)

Edna R. Atkins, J.D., is a Douglas County Court judge. She serves on the Judiciary Committee of the NSBA. She is co-chair of the Public Trust and Confidence Subcommittee of the NSBA Judiciary Committee.

Judy Beutler, M.P.A., is an associate administrator in the Administrative Office of the Courts. She served on the Nebraska Supreme Court Task Force on Gender Fairness and is a current member of the Nebraska Supreme Court Gender Fairness Implementation Committee and the Nebraska Legal Services State Planning Group "Equal Access to Justice." She is a Fellow of the National Center for State Courts' Institute for Court Management.

Edward C. Birkel, M.S., was appointed the Probation Administrator for the Nebraska Supreme Court in 1998. Prior to that, he served both as a probation officer and chief probation officer in the Nebraska probation system since 1978.

Riko E. Bishop, J.D., is a partner with Perry, Guthery, Haase & Gessford, P.C., L.L.O. She serves on the Nebraska Supreme Court Committee on Practice and Procedure and is presently on the Board of Trustees of the Lincoln Bar Association. She was appointed to the Nebraska Affirmative Action Committee and presently serves as chairperson; she is a member of the Nebraska Association of Trial Attorneys; and she is vice president of the Nebraska Council of School Attorneys.

Patrick J. Borchers, J.D., is the Dean of the Creighton University School of Law. He serves on the Law School Admission Council's Test, Development, and Research Committee. He is the author or co-author of four books and approximately 35 professional journal articles in several fields, including the most widely cited empirical study on the conflict of laws.

Laurie Smith Camp, J.D., is a United States District Court judge for the District of Nebraska. She formerly served as Nebraska's Deputy Attorney General for criminal matters, Chief of the Attorney General's Civil Rights Section, and General Counsel for Nebraska's Department of Correctional Services.

Linda R. Crump, J.D., is the Assistant to the Chancellor for Equity, Access, and Diversity Programs of the University of Nebraska-Lincoln. She has served on the Nebraska State Bar Association House of Delegates for three terms and as chair in 2000. She is currently serving as the chair of the Nebraska State Bar Association Standing Committee on Professionalism.

Vernon Daniels, J.D., is a judge of the Separate Juvenile Court of Douglas County. Previously, he served as supervisor of the juvenile division of the Douglas County Attorney's Office. He was with that office from December 1993 to September 2002.

Judi M. gaiashkibos, an enrolled member of the Ponca Tribe of Nebraska, is the Executive Director of the Nebraska Commission on Indian Affairs. She serves on the U.S. Civil Rights State Advisory Committee. She is a board member of the Governor's Interstate Indian Council and was an American Indian Law Resource Center NGO attending the 2001 World Conference on Racism in Durban, South Africa.

Janice L. Gradwohl, J.D., was a judge of the Lancaster County Court, retiring in 1990 to teach in the People's Republic of China. She was a member of the ABA National Jury Standards Task Force; president of the ABA Special Court Judges Section; and a founding member of the International Association of Women Judges. Judge Gradwohl received a presidential appointment to the Board of Directors of the State Justice Institute and supervised the SJI National Conference on Racial and Ethnic Fairness in the Courts.

John M. Gradwohl, J.D., is the Ross McCollum Professor of Law at the University of Nebraska College of Law. He first wrote on issues of student diversity as a law student in 1950. He has been concerned with law student issues pertaining to race, ethnicity and gender throughout his career at the law college and recently received special recognition from the Black Law Students Association and the Multi-Cultural Legal Society.

John P. Grant, J.D., is the president-elect of the Nebraska State Bar Association. He serves on the NSBA's Executive Council and has been a member of the House of Delegates since 1990, serving as chair in 1999. He is a former General Counsel for the Nebraska Department of Insurance and has served as special prosecutor for Douglas County District Court grand juries. He is a general practice attorney in Omaha.

Robin W. Hadfield, M.A., J.D., is a career law clerk for Judge John F. Wright of the Nebraska Supreme Court. She is a member of the Nebraska State Bar Association's Access to the Profession Committee and was previously chair of the NSBA Human Rights Committee. She has also worked as an administrative attorney and appellate attorney for the Nebraska Commission on Public Advocacy.

Deryl F. Hamann, J.D., is a member of Baird, Holm, McEachen, Pedersen, Hamann and Stasheim, LLP. He is a former chairman of the Advisory Committee and former chairman of the Nebraska State Bar Foundation. He is a past president of the Omaha Estate Planning Council, former secretary of Nebraska Continuing Legal Education, Inc., and former Secretary of the Great Plains Federal Tax Institute.

Michael G. Heavican, J.D., serves as the United States Attorney for the District of Nebraska. From 1991 to 2001, he was an assistant United States attorney for Nebraska, serving as the criminal chief from 1994 to 2001. From 1981 to 1991, he was the Lancaster County Attorney.

Cecilia Olivarez Huerta is the Executive Director of the Nebraska Mexican American Commission. She is an advocate for Hispanics and serves on many task forces and committees dealing with Hispanic issues.

John F. Irwin, J.D., has served as the Chief Judge of the Nebraska Court of Appeals since 1998 and has been on the Court of Appeals since its inception in 1991. He is an officer of the Council of Chief Judges. He also chairs the Nebraska Supreme Court Judicial Education Advisory Committee and serves as vice-chair of the Judicial Ethics Committee.

Dennis R. Keefe, J.D., is the elected Public Defender for Lancaster County, Nebraska. He is a member of the Bar Information Program of the ABA Standing Committee on Legal Aid and Indigent Defense, and a member of the National Legal Aid and Defender Association, the National Association of Criminal Defense Lawyers, and the Nebraska Association of Criminal Defense Attorneys.

Richard G. Kopf, J.D., has been Chief United States District Court Judge for the District of Nebraska since assuming that position in November 1999. He was appointed a United States District Judge by President Bush in May 1992. From February 1987 through May 1992, he served as a United States magistrate judge.

Amy L. Longo, J.D., is a partner in the law firm of Ellick, Jones, Buelt, Blazek, and Longo. In 2000, She was the first woman elected president of the Nebraska State Bar Association. She has also served as Chair of NSBA House of Delegates and is a member of the Board of Directors of the Nebraska State Bar Foundation.

Catherine M. Mahern, J.D., is a professor of law and director of the Milton R. Abrahams Legal Clinic at Creighton University School of Law. She also is holder of the Connie Kearney Chair in Clinical Legal Education and has acted as a legal education consultant in Bosnia and Croatia with the Central and Eastern Europe Law Initiative of the American Bar Association. In 2002, she was awarded the Omaha Bar Association Bob Spire Award for outstanding community service.

Thomas J. Monaghan, J.D., is a litigator with the Monaghan Group. From 1993 to 2001 he served as United States Attorney for the District of Nebraska. While U.S. Attorney, he served on the Attorney General's Advisory Committee and was chair of the Subcommittee on Controlled Substances/Drug Demand Reduction. He is a Senior Executive-in-Residence at the University of Nebraska at Omaha's College of Public Affairs and Community Service.

Robert W. Mullin, J.D., is a member of Lieben, Whitted, Houghton, Slowiaczek, & Cavanagh, P.C. He is past president of the Nebraska State Bar Association, past chair of the Nebraska Bar Commission, and serves on the Supreme Court Practice and Procedure Committee. He is a Fellow in the American College of Trial Lawyers, and a member of the American Bar Association, National Conference of Bar Presidents, and Association of Trial Lawyers of America.

James E. Rembolt, J.D., M.A., is president of the Nebraska State Bar Association. He serves on the Association's Executive Council and House of Delegates. He is a former president of NCLE, Inc., the association's continuing legal education organization, as well as Executive Council liaison to the association's Budget and Audit; Ethics; Ways, Means and Planning Committees, and the Women and the Law Section.

Mohummed Sadden, J.D., has been in private practice as a solo practitioner in South Sioux City, Nebraska, for 34 years. He is a past member of the Educational Equity Committee for the Sioux City Public School system which monitors compliance with civil rights legislation. He is member of various organizations advocating rights for minorities combined with a law practice predominately representing minorities.

Jane L. Schoenike, J.D., is the Executive Director of the Nebraska State Bar Association. She serves on the Supreme Court Gender Fairness Implementation Committee and provides staff support to the NSBA Access to the Profession Committee. She is a member of the National Association of Bar Executives Diversity Committee, ABA, and Minnesota State Bar Association.

Karen L. Shepard, J.D., is Executive Director of Greater Omaha Community Action, Inc. She formerly was the Executive Director of the Legal Aid Society, Inc. She is a member of the Midlands Bar Association and Nebraska State Bar Association.

David B. Smith, J.D., is engaged in private practice in Lexington. He served as chair of the Nebraska State Bar Association House of Delegates in 2001. He is a member of the Nebraska State Bar Association House of Delegates for the 13th District and serves on the Executive Committee.

Joe Steele is the State Court Administrator for the state of Nebraska. He is a past president of the Conference of State Court Administrators and a former member of the Board of Directors of the National Center for State Courts. He has served on a variety of state and national committees and task forces related to court activities.

Robert R. Steinke. J.D., is a Nebraska district court judge for the Fifth Judicial District in Columbus. He chairs the governmental and public relations committee of the Nebraska District Judges Association and is a member of the Nebraska Supreme Court Committee on Practice and Procedure. He also is a former board member of the Legal Aid Society.

David R. Stickman, J.D., is Federal Public Defender for the District of Nebraska. He is president of the Nebraska Criminal Defense Attorneys Association and immediate past president of the National Association of Federal Defenders. He is an adjunct professor of law at the Creighton University School of Law and a member of the Nebraska, Maryland and District of Columbia bars.

Wadie Thomas, J.D., has been a judge in the Douglas County Separate Juvenile Court since 1995. Prior to his judicial appointment, he practiced law in Nebraska for 15 years. Judge Thomas serves as a member of the Board of Trustees of the National Council of Juvenile and Family Court Judges. He speaks regularly on topics such as diversity and domestic violence.

Alan J. Tomkins , J.D., Ph.D., is the Director of the University of Nebraska Public Policy Center and is a professor in the UNL Law/Psychology Program. He consulted with the National Center for State Courts on the Hearst Corporation's national study in 1999 of public trust and confidence, "How the Public Views the State Courts." Dr. Tomkins is the author of several articles on public opinion of the courts and co-edited a special issue of *Behavioral Sciences & the Law* on "Public Trust and Confidence in the Courts" published in 2001.

Alfonza Whitaker, J.D., is the Executive Director of the Nebraska Equal Opportunity Commission. He received his J.D. in 1982 from Creighton University School of Law. After graduation from law school Al was engaged in private practice where he focused on civil rights litigation. From May 1989 to December 1996, Al was employed as an assistant attorney general with the State of Nebraska Department of Justice.

Eric L. Whitner, J.D., is owner of Whitner Law Firm, P.C., L.L.O. He is past president of the Midlands Bar Association and was elected to serve three terms on the Board of Governors of the National Bar Association, the largest organization of African-American judges and lawyers in the world, with over 17,000 members. He is co-chair of the Minority and Justice Task Force Legal Professions Subcommittee.

Steven L. Willborn, J.D., is Dean of the University of Nebraska College of Law. He has written several books and articles on employment discrimination, with special emphases on wages, pensions, and the use of statistics. He is chair of the NCAA Research Committee, a member of the Law School Admission Council's Test, Development and Research Committee, and a member of the ABA Committee on Bar Admissions.

Mark J. Young, J.D., is the Chief Deputy Hall County Attorney. Prior to his appointment as chief deputy, Young practiced in the firm of Anderson, Vipperman, Kovanda, Wetzel, and Young. In addition, Young has served on the Nebraska Legal Services merger board.

Research Staff

Judd R. Choate, Ph.D., is the project director and director of research for the Minority and Justice Task Force. Prior to joining the Task Force, he was an assistant professor of political science at the University of Nebraska-Lincoln and faculty fellow at the University of Nebraska Public Policy Center.

Elizabeth M. Neeley, M.A., is the research coordinator for the Minority and Justice Task Force. She also coordinates the Lancaster County Court's Indigence Project Evaluation for the University of Nebraska Public Policy Center. She is a doctoral student in sociology at the University of Nebraska-Lincoln with a focus on social justice and public policy.

Ramzi J. Dewing has been a research assistant for the Minority and Justice Task Force since the spring of 2002. Prior to joining the Task Force, she worked for the Consumer Protection Division of the Nebraska Attorney General's Office. She graduates in 2004 with a B.S. in business administration from the University of Nebraska-Lincoln.

Karen C. O'Neill worked as a research assistant for the Minority and Justice Task Force from August 2001 to May 2002. In May of 2002, she graduated from the University of Nebraska-Lincoln with a B.A. in business. She currently attends Creighton University School of Law.

Karen C. Reynolds worked as a research assistant for the Minority and Justice Task Force from August 2001 to May 2002. In May of 2002, she graduated from the University of Nebraska-Lincoln with a B.A. in political science and history. She currently attends law school at Georgetown University.

Acknowledgements

The Nebraska Minority and Justice Task Force is grateful for the contributions, commitment and support of those persons who assisted in its investigation of Nebraska's justice system and legal profession. Most importantly, the Task Force acknowledges the unstinting professional and financial support of the Nebraska Supreme Court and Nebraska State Bar Association. The Task Force also extends a special note of appreciation to the University of Nebraska Public Policy Center for its significant contributions, both in terms of personnel and financial support, to the preparation of this report. Finally, without two substantial grants from the State Justice Institute, this research would not have been possible.

The Task Force made a special effort to better understand the experiences in and attitudes toward the Nebraska court system through four surveys with affected groups. The Task Force gratefully acknowledges those members of the public, selected jurors, members of the Nebraska State Bar Association, and court personnel who took time to respond.

The Task Force received direction from a number of states that previously investigated race and ethnicity in the courts. Most notably, the Task Force recognizes the voluminous and continuing efforts of California, New Jersey, and Washington. Without the leadership and assistance of Justice Charles Smith, Chief Justice Patricio Serna, Dr. Yolande Marlow and others associated with the National Consortium for Racial and Ethnic Fairness in the Courts this effort would have much more difficult.

The Task Force received copies of state reports and other documents from the Knowledge and Information Services at the National Center for State Courts. In addition, the Task Force received guidance and expertise from Research Division of the NCSC, especially David B. Rottman, Principal Court Research Consultant, who consulted with the Task Force on survey construction.

A number of agencies and organizations worked closely with the Task Force during the formulation, planning, research, and preparation phases:

The Administrative Office of the Courts
Creighton University School of Law
Douglas County District Court
Hall County District Court
Lancaster County Court
Lancaster County District Court
The Midlands Bar Association
The Nebraska Association of Translators and Interpreters
The Nebraska Crime Commission
The Nebraska Department of Correctional Services
The Nebraska Mexican American Commission
The Nebraska Indian Affairs Commission
The Nebraska State Bar Association's Access to the Profession Committee
The United States District Court for the District of Nebraska
The University of Nebraska College of Law

Court reporters from around the state contributed their time and expertise to the Task Force public hearings and focus groups. The Task Force thanks them for their assistant on this project: Kathy Habben (multiple), Denise Winters-Bickal (multiple), Jenise V. Brown, Lisa Hagman, Gary Latimer, Lynne Pfortmiller, Julie L. Smith, and Gretchen L. Thomas.

The Task Force thanks those Spanish language interpreters who helped at the public hearings: Mercedes Ayala, Janet Bonet, Heidi Nino De Rivera, Elizabeth Kelley, Manuel Valverde

The Task Force also thanks those persons and organizations that promoted the public hearings.

The Task Force recognizes those who provided the facilities for the public hearings and focus groups.

Ahmanson Law Center at Creighton University – Omaha
Four Hills of Life Wellness Center – Macy
The Guadalupe Center – Omaha
The Guadalupe Center – Scottsbluff
The Malone Center – Lincoln
Omaha North High School – Omaha
Pittman Building at Creighton University – Omaha
St. Ann's Church – Lexington
The Teacher Administration Building - Omaha
Walnut Middle School – Grand Island

When a rough draft of the report was complete, legal and criminal scholars and professionals from around the state took time to peer review the document.

Judge Peter Beekman, J.D. (Tribal Circuit Judge, Nebraska)
Denise Frost, J.D. (Johnson & Mock, Omaha)
Doug German, J.D. (Nebraska Legal Services)
John Gruhl, Ph.D. (UNL Department of Political Science)
Jennifer Hunt, Ph.D. (UNL Department of Psychology)
Susan Jacobs, J.D., Ph.D. (UNO Department of Criminal Justice)
Judge Teresa Luther, J.D. (Hall County District Court)
Raneta Mack, J.D. (Creighton School of Law)
Robert Manzer, Ph.D. (Associate Vice President, Nebraska Wesleyan University)
Marc Pearce, J.D., MA. (law clerk for U.S. District Court Judge Warren K. Urbom)
Susan Poser, J.D., Ph.D. (UNL School of Law)
Marcela Raffaelli, Ph.D. (UNL Departments of Psychology & Ethnic Studies)
Cassia Spohn, Ph.D. (UNO Department of Criminal Justice)
John Wunder, J.D., Ph.D. (UNL Department of History)

Finally, a number of individuals gave of their intellect and energy to this project. They include: Benjamin Avila, Andrea Bashara, Brian Bornstein, John Cariotto, Danelle DeBoer, Jenn Elliot, Stacia Halada, Ann Hobbs, Jenn Hunt, Betty Johnson, Edward Morse, W. Don Nelson, Elizabeth Perkinson, Glenda Pierce, Marlon Polk, Clete Samson, Tricia Sharrar, Bennie Shobe, Sherry Stark, Rodney Wambeam, and Cheryl Wiese.

Definitions

Race – Due to the racial composition of the Nebraska populace and the categories used by state and federal agencies, the Minority and Justice Task Force has chosen to include four race categories in the examination that follows: 1) white, 2) black, 3) Native American, 4) Asian or Pacific Islander

Ethnicity – Due to the ethnic composition of the Nebraska populace and the categories used by state and federal agencies, the Minority and Justice Task Force has chosen to include "Hispanic" where possible in the examination that follows. Persons who identify their ethnic origin may be of any race.

Minority – An individual of a race or ethnicity that comprises less than 50% of the total population. For the purposes of this study, all persons identifying themselves as black, Native American, Asian or Pacific Islander, or Hispanic are considered minorities.

Overrepresentation – When the proportion of persons in a specific group is large in comparison with the proportion of that same group found in the population or in comparison with other groups.

Underrepresentation – When the proportion of persons in a specific group is small in comparison with the proportion of that same group found in the population or in comparison with other groups.

Executive Summary

In the report that follows, the Nebraska Minority and Justice Task Force finds that minorities are overrepresented as defendants in the criminal and juvenile justice system; minorities are underrepresented in Nebraska's legal profession and as court employees and jurors; and a substantial portion of the responding public, Nebraska lawyers, and court personnel perceive that bias exists in the Nebraska justice system.

The Task Force concludes that the data available prevent a complete analysis of the under and overrepresentation of minorities and that the findings do not prove or disprove systemic discrimination in the Nebraska justice system based on race and ethnicity. Instead, the Task Force found idiosyncratic factors that may represent barriers to fair and equal access to justice.

Therefore the Task Force recommends that the Nebraska justice system commit itself to a morally searching, permanent, institutional effort to study, address and change those practices and procedures that may disadvantage minorities, whatever the cause of those practices.

Access to Justice

- Minority members of the Nebraska general public have substantially less trust in the Nebraska court system than do white members.

- There is a shortage of certified language interpreters in the state, especially given the increasing language diversity among the state's new immigrants.

- There is evidence to suggest that Nebraska juries are not reflective of the racial and ethnic diversity found in the state's communities.

Criminal and Juvenile Justice

- Adult racial and ethnic minorities are disproportionately arrested and incarcerated in relationship to their percentage in the general population and compared to their white counterparts.

- Juvenile racial and ethnic minorities are disproportionately arrested and detained in relationship to their percentage in the general population and compared to their white counterparts.

- There is insufficient exchange of information among Nebraska's law enforcement agencies and court systems making an investigation of racial and ethnic bias very difficult.

- Minority and white court personnel and lawyers have markedly different perceptions regarding the treatment of racial and ethnic minorities by prosecutors and judges and in the overall court environment.

Court Personnel

- Nebraska's racial and ethnic minorities are substantially underrepresented at every level of the state's court system.

- The decentralized nature of the Nebraska district courts make it difficult to collect data regarding the number of minority employees employed by the district courts, the grievance procedures, the number of complaints filed in the past year, and the hiring policies and procedures for each district court.

- Both minority and white court personnel and lawyers report having witnessed or that they were aware of inappropriate comments or jokes of a racial or ethnic nature, racial or ethnic slurs, and disrespectful and discourteous treatment of minorities.

Legal Profession

- Nebraska's legal profession is not reflective of the state's racial and ethnic diversity.

- Too few Nebraska minorities and minorities from other states apply to and matriculate at Nebraska's law schools.

- Minority and white lawyers have noticeably different perceptions of career opportunities in the state, including those related to mentoring, retention, and promotion.

- Racial and ethnic minorities are underrepresented in Nebraska's judicial system.

General Recommendations

1. The Minority and Justice Task Force should publicize the report in traditional and nontraditional media sources.

2. A standing committee should be formed to coordinate the implementation of the recommendations. The implementation committee should include appropriately diverse representation from the judiciary, the Nebraska State Bar Association, the law schools, the Nebraska Supreme Court, the Administrative Office of the Courts and Probation, and the public.

3. The implementation committee should seek funding for the implementation of the Task Force recommendations and any additional studies deemed necessary as set out in the specific subcommittee recommendations that follow.

4. The implementation committee should develop and coordinate community outreach initiatives designed to broaden access to and improve public understanding of the legal system through partnerships with the Nebraska State Bar Association, the law schools, state and county governments and community groups.

5. The implementation committee should devise methods for the public to communicate to the committee their concerns relating to perceived ethnic or racial bias within the judicial system of the state of Nebraska.

6. The implementation committee should coordinate court-and bar-sponsored programs to make courts more user friendly to citizens from all cultures utilizing new and existing technology to improve public understanding and participation in the court system.

Introduction

The Nebraska Minority and Justice Task Force was created as the joint initiative of the Nebraska State Bar Association and the Nebraska Supreme Court in October of 1999 to examine issues of racial and ethnic fairness within the Nebraska court and legal systems. Highly respected lay leaders within various ethnic communities and a multiracial group of lawyers and state judges were appointed to the Task Force. A United States District Court judge, the United States Attorney for Nebraska, and the Chief Federal Public Defender for Nebraska were also included to represent the federal courts for comparison purposes. Supreme Court Justice John M. Gerrard, Daniel Harris, Jr., counsel for Mutual of Omaha, and Harold L. Rock, of the law firm Kutak Rock, were selected as tri-chairs for the Task Force. The following resolution was supported by the Nebraska Supreme Court and approved by the Nebraska State Bar Association's House of Delegates on October 7, 1999.

BE IT RESOLVED by the House of Delegates of the Nebraska State Bar Association

WHEREAS, that one of the principal goals of the Nebraska State Bar Association is the improvement of the administration of justice; and

WHEREAS, equal access to the judicial process and legal profession is essential to the effective administration of justice; and

WHEREAS, the Supreme Court of the State of Nebraska agrees to and supports the creation of a joint Task Force;

NOW THEREFORE, the House of Delegates resolves to create a joint Task Force with the Nebraska Supreme Court to study racial and ethnic bias in the justice system and legal profession in the state of Nebraska. The Minority and Justice Task Force is empowered to apply for outside funding for this study in the name of the Nebraska State Bar Association.

The Minority and Justice Task Force had its first meeting on November 19, 1999, to organize and determine its focus. It was determined that the purpose and scope of the Task Force was to conduct a study of perceived and actual bias in the justice system and legal profession. The Task Force was expected to:

1. Identify and investigate areas of actual or perceived racial and ethnic bias which may exist in the court system and the legal profession and their effect upon the judicial process and participants.

2. Collect the information received and make findings with regard to such actual or perceived bias.

3. Submit a report to the Supreme Court and Bar Association, including the Task Force's findings and its recommendations to help eliminate bias from both the judicial process and the legal profession.

The Task Force also participated in cultural awareness training in March of 2000 which included an exercise in diversity involvement. Issues from other state task forces and copies of their reports were reviewed to help determine areas for focus.

Study Design

Although the Task Force determined that it was necessary to seek professional advice as to the research methods to be used, it agreed that it was important to determine how Nebraskans felt about their legal system and to establish how fair it was perceived to be. In order to carry out this part of the charge, the Task Force believed it was imperative that those perceptions be heard directly from the citizens of the State of Nebraska as well as lawyers, judges and court personnel. The Task Force wanted to know not only their actual experiences, but also their perceptions and concerns with Nebraska's legal system. One method to gather the information was through public hearings held strategically throughout the state. A total of eight hearings occurred over the course of four weeks during the spring of 2002. A second process was to meet with focus groups. Thus, focus groups with minority lawyers and minority law students were convened.

The Task Force chose a subcommittee structure. There were four subcommittees, plus an Operations Committee which provided oversight and coordination to the full Task Force. The Operations Committee included the three chairpersons, Judge John M. Gerrard of the Nebraska Supreme Court; Daniel Harris, Jr., Counsel for Mutual of Omaha; Harold L. Rock, of the law firm Kutak Rock; Jane Schoenike, Executive Director of the Nebraska State Bar Association; Robin Hadfield, career law clerk for Supreme Court Judge John F. Wright and reporter for the Task Force; and Judy Beutler, Associate Administrator from the Administrative Office of the Courts.

The chairs of the subcommittees and the operations committee met with a consultant, Dr. Yolande Marlow from the New Jersey Commission on Minority Concerns. Dr. Marlow shared her experiences from working with the task forces in New Jersey and other states and made several suggestions particularly for conducting public hearings.

A complete research plan was developed by the University of Nebraska Public Policy Center during 2001. A technical assistance grant from the State Justice Institute was awarded to complete this process. With additional funding provided by the Nebraska State Bar Association, a Research and Project Director was hired.

In December of 2001, a project grant from the State Justice Institute was awarded. With funds from the Nebraska Supreme Court and the Nebraska State Bar Association and money from the Nebraska Federal Practice Fund, the Task Force began to implement its research plan. The subcommittees, with their respective charges, included:

Access to Justice

- Jury pool analysis
- Interpreter services
- Public perceptions
- Juror perceptions

Criminal and Juvenile Justice

- Juvenile diversion programs
- Adult diversion programs
- Criminal data analysis

Court Personnel

- Minority employment by the courts
- Equal employment opportunity policies
- Employee perceptions

Legal Profession

- Law school admission and retention
- Professional opportunities
- Judicial nominations and selection

Subcommittees were chaired by two Task Force members and included 5 to 10 other Task Force members. The subcommittee membership was intended to be as truly diverse as possible so as to bring a wide range of perspectives and ideas to each group.

Implications

The Minority and Justice Task Force began the process of examining the court and legal systems knowing that reactions to the formation of the Task Force ranged from belief that a study was long overdue due to skepticism that any problems existed or that any change was needed. From the start, the Task Force had good reason to believe that many aspects of the Nebraska legal system were doing reasonably well to assure fundamental fairness to all of its citizens. However, the Task Force believed that its primary mission was to point out those areas where our state's justice and legal system could improve its performance and, wherever possible, to recommend means that were readily achievable.

The Task Force was also aware that costs are a consideration in many of the recommendations. Costs were considered, but they were not the driving consideration. The Task Force adopted a pragmatic approach. Much thought went into identifying the specific entity or individual responsible for implementing each recommendation and into determining the likelihood of implementation. In some instances, however, recommendations were included simply because the Task Force concluded that they needed to be made – even if implementation would be difficult in the near future.

The Task Force believes that this report provides the basis for ongoing examination of, dialogue about, and meaningful improvement in the way the issues of race and ethnicity are addressed in the courthouses, law offices, law schools and other legal venues throughout the state of Nebraska.

As the Task Force was created with diversity of perspective in mind, there are considerable differences of opinion about some aspects of the final report. The Task Force Final Report represents the broad agreement of its members. However, not every member agrees with every statement, finding and recommendation. The report should not be construed as a statement of the position of any one member. While the final report can be seen as the culmination of the Task Force's efforts, its members sincerely hope it will merely signal the beginning of the effort to improve the justice system in Nebraska.

Chapter 1: Access to Justice

The Minority and Justice Task Force sought to study selected issues relating to full and equal access to justice, including both the perception of court participants and the public, as well as barriers that may actually exist. This includes a study of the public's perception of the courts, the use of interpreters in Nebraska's courts, and the composition of juries.

Public Perception of the Courts

Public perception of courts is important because it has both direct and indirect effects on the institution. If a segment of the Nebraska population has less "faith" in the courts, individuals who lack faith in the system are less likely to report a crime or initiate a criminal complaint, file what may be a legitimate suit, answer a summons for jury duty, or apply for a position working for the court. It is for this reason that the Minority and Justice Task Force has undertaken this examination.

Research Methods

The Task Force based its research model on a similar study undertaken by the National Center for State Courts (NCSC). In the spring of 1999, the NCSC conducted a national survey of 1,826 Americans asking for opinions regarding state and local courts. The effort was designed to assess public trust and confidence in the courts as a way of better understanding the public's perception of state institutions. The Hearst Corporation funded the research, as it had the originating study in 1977, as well as the comparison study in 1983.

The 1999 NCSC survey was undertaken by the Indiana University Public Opinion Laboratory, which conducted preliminary telephone interviews with approximately 1,200 randomly selected adults from around the country. Then, in an effort to better understand the opinions of the major population groups only marginally represented by the original survey, it conducted an additional survey of 300 blacks and 300 Hispanics. This "oversample" of racial and ethnic group members allowed the NCSC to accurately assess the opinions of not just one group, whites, but three groups: whites, blacks, and Hispanics. Prior to the oversample, fewer than 100 respondents were black and another 100 were Hispanic. The size of the sample made it unwise to extrapolate to the general public. With the additional respondents in the oversample, however, it is possible to assess the views of all three major groups.

The NCSC identified several objectives, including assessing what "the American public thinks about the performance of state and local courts in key areas such as access to justice…and fairness and equality" (How the Public Views the State Courts 1999, 9). Additionally, the NCSC sought to "provide a model survey that can be used by individual state and localities wanting to undertake a systematic inquiry into what their public thinks about court performance" (Ibid.). The Minority and Justice Task Force duplicated many of the NCSC's questions when surveying the Nebraska public.

From December of 2001 through March of 2002, the University of Nebraska Bureau of Sociological Research (BOSR) conducted 1,473 phone interviews of Nebraska citizens for the Nebraska Annual Social Indicators Survey (NASIS). The Minority and Justice Task Force purchased time on this survey to ask 21 questions, many of which duplicated the aforementioned NCSC public trust and confidence questions previously tested in the 1977, 1983, and 1999 analyses.

The Task Force duplicated the NCSC oversample technique in an effort to create a respondent group that reflects the Nebraska public, while giving enough respondents to allow each group to be examined separately. Thus the survey sample falls within the established margin of error parameters for the major groups identified. For instance, the margin of error for all respondents is +/-2.6%. This

number changes only slightly when compared to the margin of error for white respondents at +/-2.9%. Given that the percentage of other groups, namely blacks, Hispanics, and Native Americans, is substantially smaller than the overall percentage of white respondents, the margin of error for these groups is higher, although easily within accepted parameters at +/-6.2%.

A more complete discussion of the research methodology is found in Chapter 5, page 139.

Sample

The first section of the survey asked respondents to identify their experience in the courts. These questions began with a threshold question – "Have you ever been in a Nebraska court of law?" If the respondent answered "yes" to this question, he or she was asked the next five questions, each relating to specific experiences in the Nebraska court system. If he or she answered "no," the respondent was not asked the five experiential questions.

Of the 1,473 survey respondents, 820, or 55.7%, answered "yes." Approximately 40% of those who reported having experience in the Nebraska court system had been called for jury duty, 24.9% had testified at a court proceeding, 20.2% had been litigants in a civil action, and 13.3% had been defendants in a criminal case.

Trust in Public Institutions

The second section reports Nebraskans' view of their public institutions. This section lists several important public institutions and asked respondents to identify the amount of trust or confidence they had in these institutions. Table 1-1 contains the entire Nebraska sample, including both white and minority respondents. A cross-section of Nebraska residents had the highest level of trust in the University of Nebraska, local police, and the U.S. Supreme Court, each garnering a great deal of confidence by over one-third (34.3%) of the respondent pool. On the other hand, 23.5% of the respondents had a great deal of confidence in the community courts. Respondents had less confidence in lawyers in the community, where 18.0% have a great deal of confidence in the local legal community.

Table 1-1: Trust and Confidence in American Institutions
– Entire Nebraska 2002 Sample –
n=1473

	Amount of Trust/Confidence			
Institution	Great Deal	Some*	Only a Little	None
University of Nebraska	43.8%	48.5% (92.3)	6.2%	1.6%
Local Police	39.1%	44.2% (83.3)	10.4%	6.3%
U.S. Supreme Court	34.3%	50.7% (85.0)	10.5%	4.5%
Courts in Your Community	23.5%	54.8% (78.8)	14.1%	7.6%
Nebraska Legislature	18.8%	60.7% (79.5)	14.7%	5.7%
Lawyers in Your Community	18.0%	55.2% (73.2)	17.0%	9.8%
U.S Congress	16.2%	58.8% (75.0)	18.5%	6.5%

*Note: Parenthetical values represent the sum of "Great Deal" and "Some"

Table 1-2 shows only those respondents who identified themselves as an ethnic or racial minority. These categories included black, Hispanic, Asian American, Native American, and those who identified themselves as being of multiple races or ethnicities. The level of trust in the public institutions fell

dramatically across every category for minority respondents. Most notably, minority respondents tend to trust the three selections that represent the Nebraska legal community – the local police, courts in the community, and the lawyers in the community – less than white respondents. Blacks tend to have the lowest levels of trust in these institutions, followed by Native Americans. Of the four minority groups under investigation, Hispanics were more likely to trust the social and governmental institutions under examination. That said, the relative lack of confidence in the lawmaking, enforcing, and adjudicating entities suggests a trend of minority mistrust of societal institutions, not dissimilar to that found in California and nationally (Final Report of the California Judicial Council Advisory Committee on Racial and Ethnic Bias in the Courts 1997; How the Public Views the State Courts 1999).

Table 1-2: Trust and Confidence in American Institutions – Nebraska Minority Respondents 2002 Sample – n=240

	Amount of Trust/Confidence			
Institution	Great Deal	Some*	Only a Little	None
University of Nebraska	36.5%	49.5% (86.0)	10.6%	3.4%
U.S. Supreme Court	25.0%	45.5% (70.5)	20.0%	9.5%
Local Police	23.0%	37.2% (60.2)	22.6%	17.2%
Lawyers in Your Community	14.9%	45.2% (60.1)	23.5%	16.3%
Courts in Your Community	14.2%	46.9% (61.1)	22.6%	16.4%
U.S Congress	12.4%	49.6% (62.0)	22.1%	15.9%
Nebraska Legislature	9.3%	54.9% (64.2)	24.5%	11.3%

*Note: Parenthetical values represent the sum of "Great Deal" and "Some"

The questions asked in the Nebraska study were similar to those asked in the national study reported in Table 1-3. While the specific group traits cited in Table 1-2 present some serious concerns about the beliefs of minority Nebraskans in general, the data collected in the Nebraska sample, especially that concerning the local police, U.S. Supreme Court, courts in the community, and the state legislature, mirrors the national numbers. For the most part, the general public in both Nebraska and the nation as a whole has confidence in most of the public institutions discussed.

Table 1-3: Trust and Confidence in American Institutions – Entire NCSC 1999 Sample – n=1,826

	Amount of Trust/Confidence			
Institution	Great Deal	Some*	Only a Little	None
Medical Profession	45%	42% (87)	10%	3%
Local Police	43%	39% (82)	12%	6%
U.S. Supreme Court	32%	45% (77)	17%	6%
Office of the Governor	30%	47% (77)	16%	8%
Public Schools	26%	49% (75)	20%	5%
Courts in Your Community	23%	52% (75)	17%	8%
State Legislature	18%	58% (76)	17%	7%

*Note: Parenthetical values represent the sum of "Great Deal" and "Some."

The differences in the responses between whites and minorities in Tables 1-1 and 1-2 suggest a heightened level of distrust in government and social institutions on the part of Nebraska's minorities. Race and ethnicity remain significant predictors of confidence in each of the seven institutions, even after controlling for education, income, and diversity of respondent's place of residence. Respondents with higher levels of education and greater incomes consistently have more trust in these institutions.

Tables 1-4 through 1-6 illustrate the trust and confidence Nebraskans had for "the courts in your community." Respondents are divided by those with experience in the courts, as a juror, litigant, witness, or defendant, and those without court experience. Table 1-4 illustrates the attitudes of the entire sample. Tables 1-5 and 1-6 show these attitudes for white respondents and minority respondents. With the possible exception of jurors, those Nebraskans with court experience participating in the survey had less trust in the courts as compared to those without experience. Generally speaking, minorities with court experience have less trust and confidence in the courts than whites with court experience.

Table 1-4: Trust and Confidence in Courts in Your Community
– Entire Nebraska 2002 Sample –

		Amount of Trust/Confidence			
Experience	Number	Great Deal	Some	Only a Little	None
No Experience	573	28.8%	56.7% (85.5)	10.3%	4.0%
Served as a Juror	134	26.1%	53.7% (72.3)	14.9%	5.2%
Called to Testify	199	19.6%	53.8% (73.4)	16.6%	9.5%
Civil Litigants	160	16.9%	46.3% (63.2)	22.5%	13.8%
Criminal Defendants	109	15.6%	38.5% (44.1)	22.9%	22.9%

*Note: Parenthetical values represent the sum of "Great Deal" and "Some."

Table 1-5: Trust and Confidence in Courts in Your Community
– White Nebraskans 2002 Sample –

		Amount of Trust/Confidence			
Experience	Number	Great Deal	Some	Only a Little	None
No Experience	463	30.0%	58.1% (88.1)	8.6%	3.0%
Served as a Juror	113	27.4%	55.8% (83.2)	12.4%	4.4%
Called to Testify	158	20.9%	54.4% (75.3)	15.2%	9.5%
Civil Litigants	119	20.2%	50.4% (70.6)	17.6%	11.8%
Criminal Defendants	80	17.5%	38.8% (56.3)	25.0%	18.8%

*Note: Parenthetical values represent the sum of "Great Deal" and "Some."

Table 1-6: Trust and Confidence in Courts in Your Community
– Minority Nebraskans 2002 Sample –

		Amount of Trust/Confidence			
Experience	Number	Great Deal	Some	Only a Little	None
No Experience	110	23.6%	50.9% (74.5)	17.3%	8.2%
Served as a Juror	21	19.0%	42.9% (61.9)	28.6%	9.5%
Called to Testify	41	14.6%	51.2% (65.8)	22.0%	9.8%
Civil Litigants	41	7.3%	34.1% (41.4)	36.6%	19.5%
Criminal Defendants	29	10.3%	37.9% (48.2)	17.2%	34.5%

*Note: Parenthetical values represent the sum of "Great Deal" and "Some."

Fairness in Nebraska's Courts

While a handful of states have surveyed any of a list of important groups within the legal community, including 1) members of the state bar association, 2) judges, 3) judicial support staff, 4) all court employees, 5) probation employees and administrators, 6) interpreters, 7) jurors, and 8) victims of criminal offenses, only California and Nebraska undertook a survey of the general public (Final Report of the California Judicial Council Advisory Committee on Racial and Ethnic Bias in the Courts 1997).

California found that the state's public "believes their courts to be significantly fairer to whites than they are to any other group of residents" (Ibid., 41). The same conclusion can be drawn from the Nebraska data, although some interesting trends in the data suggest that members of different racial and ethnic groups have substantially different interpretations of the fairness of the system. A majority of white respondents tended to believe that the courts treat all citizens the same, while those who identified themselves as members of a racial or ethnic group concluded that some Nebraskans are treated better than others and vice versa.

As illustrated in Table 1-7, 31.2% of white respondents believed that whites receive either far better or somewhat better treatment by the courts than other Nebraskans, while 81.0% of blacks believed that to be the case, along with 55.5% of Native Americans and 53.5% of Hispanic residents. Overall, minority respondents were twice as likely to believe that whites receive far better or somewhat better treatment than minorities.

Table 1-7: Court Treatment of White Nebraskans
– Nebraska 2002 –

	Number	Far Better	Somewhat Better	Same	Somewhat Worse	Far Worse
White	1,036	4.8%	26.4%	64.8%	3.0%	1.1%
Black	121	40.5%	40.5%	18.2%	0.0%	0.8%
Hispanic	71	21.1%	32.4%	45.1%	1.4%	0.0%
Native American	27	29.6%	25.9%	40.7%	0.0%	3.7%

When these same respondents were asked about the treatment of blacks by the Nebraska court system, the opinions of white respondents changed little. Black responses changed dramatically, suggesting that the treatment of blacks in the state's courts is at least somewhat worse and often far worse than that received by all other Nebraskans. As seen in Table 1-8, Nebraska's minorities, especially blacks, are much more likely to respond that blacks receive somewhat worse or far worse treatment than do whites in Nebraska courts.

When the NCSC asked the same question in its 1999 national study of trust and confidence in the court system, 42% of white respondents agreed that blacks receive worse treatment in the courts, as opposed to 27.8% of white respondents who came to the same conclusion in the Nebraska pool. Conversely, 67% of black respondents in the national pool believed they were more likely to receive unfair treatment, while an even larger percentage, 77.2%, of Nebraska blacks perceived they are treated worse in the courts. Thus, white Nebraskans are less likely than whites nationally to believe a "fairness" issue exists in the courts, yet blacks in the state of Nebraska are more likely to believe in such concerns. This could suggest that, regarding perceptions of the court system, Nebraska may have a more dramatic schism between black and white attitudes than witnessed nationally regarding their respective treatment by the courts.

Table 1-8: Court Treatment of Black Nebraskans
– Nebraska 2002 –

	Number	Far Better	Somewhat Better	Same	Somewhat Worse	Far Worse
White	971	2.1%	9.7%	60.5%	24.8%	3.0%
Black	123	0.0%	6.5%	16.3%	45.5%	31.7%
Hispanic	64	3.1%	10.9%	37.5%	31.3%	17.2%
Native American	26	3.8%	3.8%	42.3%	30.8%	19.2%

The same trend can be found in Table 1-9. While white respondents were somewhat more likely to perceive the courts are less fair to Native Americans, the overall percentages among white respondents changed little. As with the question regarding the treatment of blacks, a vast majority of black respondents believe that the courts are unfair to Native Americans. Native Americans, however, were no more or less likely to believe members of their racial group were likely to receive unfair treatment. In fact, less than a majority (48.1%) of Native American respondents believe their treatment is worse than the norm. This means that blacks are far more likely to believe that Native Americans receive unfair treatment than Native Americans believe. Hispanic respondent perceptions changed little from those of blacks and Native Americans.

Table 1-9: Court Treatment of Native American Nebraskans
– Nebraska 2002 –

	Number	Far Better	Somewhat Better	Same	Somewhat Worse	Far Worse
White	955	2.0%	9.5%	52.4%	29.1%	7.0%
Black	113	1.8%	5.3%	18.6%	40.7%	33.6%
Hispanic	63	7.9%	12.7%	31.7%	28.6%	19.0%
Native American	27	0.0%	7.4%	44.4%	25.9%	22.2%

In Table 1-10, these same respondents evaluated the treatment of Hispanics and non-English speakers in the Nebraska courts. Again, black respondents were more likely to believe that members of these two groups are treated somewhat worse or far worse than other Nebraskans. Hispanic respondents, however, were more likely to believe Hispanics receive worse treatment than white respondents.

Table 1-10: Court Treatment of Hispanic Nebraskans
– Nebraska 2002 –

	Number	Far Better	Somewhat Better	Same	Somewhat Worse	Far Worse
White	966	3.5%	9.4%	54.6%	28.4%	4.1%
Black	114	0.0%	9.6%	16.7%	46.5%	27.2%
Hispanic	71	0.0%	11.3%	45.1%	32.4%	11.3%
Native American	25	0.0%	4.0%	40.0%	32.0%	24.0%

The question illustrated in the above table is one asked of the national pool by the NCSC in 1999. The NCSC found that nationally 47% of all respondents believed that Hispanics receive worse treatment in the courts than other court participants. This number was substantially lower in the Nebraska pool.

Less than 40% (37.6%) of Nebraskans responding to the survey believed that Hispanics receive worse treatment in the courts than others. Again, the high percentage of white respondents likely influence this finding, as Nebraska's white respondents were less likely than minority respondents to believe Hispanics receive unfair treatment.

Finally, Table 1-11 shows that 17.1% of the Hispanics in the respondent pool believe that non-English speakers receive far better or somewhat better treatment than other Nebraskans, the largest percentage of any group, with the exception of blacks. Still, a significant percentage, 42.0% of the total pool, believed that non-English speakers receive worse treatment in Nebraska's courts, suggesting that Nebraskans recognize the effect of language barriers on the fair disposition of justice in the county and district court system.

Table 1-11: Court Treatment of Non-English Speakers
– Nebraska 2002 –

	Number	Far Better	Somewhat Better	Same	Somewhat Worse	Far Worse
White	935	3.4%	9.9%	48.0%	33.3%	5.3%
Black	114	0.9%	16.7%	18.4%	42.1%	21.9%
Hispanic	70	1.4%	15.7%	34.3%	31.4%	17.1%
Native American	27	0.0%	7.4%	40.7%	33.3%	18.5%

Again, when compared to the national data, white Nebraskans tend to believe their court system is more fair than do whites in other parts of the nation. Over 51% of whites around the country responded that non-English speaking people receive somewhat worse or far worse treatment in the courts. Among Nebraska whites, 38.8% agreed that the courts are less fair to non-English speakers. Among the other groups, the national and Nebraska numbers were much closer. Sixty-four percent of Nebraska's black respondents and 64% of the nation's blacks believed non-English speakers receive worse treatment. Approximately 57% of the nation's Hispanic respondents perceived worse treatment, while 48.5% of Nebraska Hispanic respondents agreed.

Equal Access Issues

Finally, the Nebraska-wide survey inquired on a variety of issues related to the public's view of the Nebraska justice system. Across several topics, both white and minority Nebraskans displayed what may be serious concerns about access and fairness. Specifically, over 80% (81.2%) of respondents believed "that money affects the quality of legal representation." For this question and others in this section, there were minimal differences across the race and ethnicity of the respondent pool. Additionally, 38% of white respondents and 38% of respondents overall believed that minority litigants are likely to be able to afford quality representation in a Nebraska court of law. Hence, the prevailing view of Nebraska citizens is that minority Nebraskans face additional hurdles when seeking equal access and opportunity in using the judicial system.

One area of specific interest to the Task Force concerns the likelihood of minority members to be a litigant in a civil suit. The most vulnerable group in this regard is non-English speakers. In one question dealing with likelihood to file a suit, over 60% (62.5%) of white respondents and slightly higher percentages of minority respondents believe that new immigrants to the community may feel reluctant to make use of the courts. Table 1-12 shows these small differences across the selected groups, with Hispanic respondents the most likely to strongly agree.

Table 1-12: New Immigrants Reluctant to Make Use of the Courts – Nebraska 2002 –

	Number	Strongly Agree	Somewhat Agree	Disagree	Strongly Disagree	Don't Know
White	1,154	12.2%	50.3%	23.4%	3.9%	10.1%
Black	135	15.6%	48.9%	19.3%	3.7%	12.6%
Hispanic	82	25.6%	39.0%	24.4%	3.7%	7.3%
Native American	28	17.9%	60.7%	10.7%	10.7%	0.0%

When this question was altered to include all minorities, and not just the state's new immigrants, white respondents and minority respondents differed substantially concerning the likelihood of a minority filing a lawsuit. As testimony at public hearings and private comments from both citizens and court employees, lawyers, and judges suggest, Nebraska's minorities may be more likely than white Nebraskans to feel uncomfortable in the court system. When asked, minority Nebraskans were statistically more likely than white respondents to report that Nebraska's minorities are less likely to file a lawsuit. Whereas just less than 50% (49.5%) of white respondents strongly agreed or somewhat agreed with the premise that minorities are reluctant to file a lawsuit, over 75% (76.6%) of Hispanic respondents, 72% (72.4%) of black respondents, and 67% (67.9%) of Native American respondents strongly agreed or agreed with the statement.

Table 1-13: Minorities Reluctant to File a Lawsuit – Nebraska 2002 –

	Number	Strongly Agree	Somewhat Agree	Disagree	Strongly Disagree	Don't Know
White	1,154	7.6%	41.9%	33.3%	5.5%	11.6%
Black	134	24.6%	47.8%	20.1%	3.0%	4.5%
Hispanic	81	19.8%	56.8%	11.1%	2.5%	9.9%
Native American	28	25.0%	42.9%	25.0%	7.1%	0.0%

Another area of significant difference between white respondents and those of the three racial and ethnic groups under investigation concerned the perception of the court's familiarity with the concerns of the community. Specifically, a majority of minority Nebraskans believed that Nebraska's courts are "out of touch with what's going on in their communities," whereas one-third of white respondents agreed with this statement. The Nebraska findings are similar to those of the NCSC seen below (Ibid.). In both cases, white respondents were statistically less likely than minority respondents to believe the courts are "out of touch" with the community.

Table 1-14: Courts Are "Out of Touch" with the Community – Nebraska 2002 –

	Number	Strongly Agree	Somewhat Agree	Disagree	Strongly Disagree	Don't Know
White	1,155	5.4%	29.4%	51.7%	2.9%	10.6%
Black	135	16.3%	45.9%	25.9%	1.5%	10.4%
Hispanic	82	8.5%	42.7%	30.5%	1.2%	17.1%
Native American	28	21.4%	35.7%	32.1%	3.6%	7.1%

Table 1-15: Courts Are Out of Touch with the Community
– NCSC 1999 Sample –
n=1,826

	Strongly Agree	Somewhat Agree	Disagree	Strongly Disagree
White	14%	25%	34%	27%
Black	35%	32%	20%	14%
Hispanic	21%	33%	26%	17%

Finally, Nebraskans were asked two general questions about the overall fairness of the courts for all Nebraskans and then for only minority Nebraskans. In both cases, white respondents have a substantially better opinion of the fairness of Nebraska's courts. Over 80% of white respondents believed that "in general, Nebraska courts are fair to all Nebraskans," while less that 60% of minorities believed the courts are fair.

The differences between races and ethnicities become even more pronounced for the second question. When asked: "Consider just Nebraska's racial and ethnic minorities: how fair do you think the court system is to nonwhites?," 70.7% of white respondents reported that the Nebraska court system is fair to minorities. The responses from minorities differed dramatically from that of white responses to the question of whether minority Nebraskans receive fair treatment in the courts.

Table 1-16: Courts Are Fair to All Nebraskans
– Nebraska 2002 –

	Number	Strongly Agree	Somewhat Agree	Disagree	Strongly Disagree	Don't Know
White	1,155	44.6%	38.1%	10.0%	2.3%	5.0%
Black	134	15.7%	41.8%	23.1%	13.4%	6.0%
Hispanic	82	32.9%	29.3%	20.7%	7.3%	9.8%
Native American	28	21.4%	35.7%	25.0%	17.9%	0.0%

Table 1-17: Courts Are Fair to Minority Nebraskans
– Nebraska 2002 –

	Number	Strongly Agree	Somewhat Agree	Disagree	Strongly Disagree	Don't Know
White	1,151	42.5%	28.2%	15.6%	3.5%	10.3%
Black	134	12.7%	22.4%	32.1%	26.9%	6.0%
Hispanic	81	25.9%	19.8%	22.2%	17.3%	14.8%
Native American	28	25.0%	21.4%	25.0%	25.0%	3.6%

Discussion

Some patterns emerge from these data. First, minority Nebraskans believe that they receive substantially worse treatment in the courts than the white majority believes minorities receive. Minority group members also tend to believe relatively uniformly that other minority group members, in addition to themselves, receive unfair treatment compared to white court participants. This is especially the case

among black respondents, who are less positive about court fairness issues. Generally speaking, Native American and Hispanic perceptions closely parallel one another, with Hispanic respondents being somewhat more positive than any other group of minority respondents.

Finally, it appears that Nebraska respondents tend to have somewhat different views than the national sample when asked the same questions. Specifically, white respondents in Nebraska perceive that minorities are treated better than do white respondents in the national survey. Conversely, a substantially higher percentage of blacks in the Nebraska pool believe they, and members of other racial and ethnic groups, are treated unfairly.

Interpreter Services in the Nebraska Court System

It is not enough for the court to provide equal treatment under law. The court must also confirm that all parties not only receive fair treatment but also understand what is happening to them and the options available to them. This is where interpreter services become important. Currently, under Nebraska law, interpreter services are governed by statute, which states:

> It is hereby declared to be the policy of this state that the constitutional rights of persons unable to communicate the English language cannot be fully protected unless interpreters are available to assist such persons in legal proceedings. It is the intent of §§ 25-2401 to 25-2407 to provide a procedure for the appointment of such interpreters to avoid injustice and to assist such persons in their own defense (Neb. Rev. Stat. § 25-2401 (Cum. Supp. 2002)).

Linguistic impediments to quality legal assistance or fair treatment have numerous effects. In New Jersey's 1992 investigation, it was concluded that these limitations lead to four likely outcomes: 1) a lack of familiarity with the judicial process, 2) language discrimination, 3) an inadequacy of competent interpreter services, and 4) an inaccessibility of support services for those with limited understanding of the majority language (New Jersey Supreme Court Task Force on Minority Concerns 1992).

Specifically, Nebraska has undergone a dramatic demographic change in the past decade that has left the courts struggling to meet the needs of diverse groups. For instance, since 1990 the percentage of people over the age of five who speak English less than "very well" has increased from 1.5% to 3.6%. The number of individuals over the age of five who speak a language other than English at home has also increased over the past decade from 69,872 to 125,654 (U.S. Census Bureau: State and County Quick Facts 1990, 2000).

Table 1-18: Nebraskans Who Speak a Language Other than English at Home

	Total Nebraska Population	Number of Nebraskans Who Speak a Language Other Than English at Home	Number of Nebraskans Who Speak English Less Than "Very Well"
1990 U.S. Census	1,458,904	69,872 (4.8%)	22,252 (1.5%)
2000 U.S. Census	1,594,700	125,654 (7.9%)	57,772 (3.6%)
Change	+135,796	+55,782 (3.1%)	+35,520 (2.1%)

Interpreter Certification

Nebraska has taken steps toward providing qualified interpreters to assist individuals in Nebraska's courtrooms, including joining the Consortium for State Court Interpreter Certification in 1999, which is a 28-member program founded in 1995 with the purpose of developing and regulating the use of court interpreter proficiency tests. The consortium has developed tests in the following languages, which are available for use by the member states: Arabic, Cantonese, Haitian, Creole, Hmong, Korean, Laotian, Polish, Russian, Spanish, and Vietnamese.

Nebraska has offered certification training and the Spanish certification test twice, once in 2000 and again in 2001. In 2000, of the 50 individuals who took the examination, five passed. In 2001, of the 27 individuals who took the examination, one passed. The six interpreters certified in Spanish are located in the following cities: three in Omaha, one in Aurora, one in Lexington, and one in Norfolk. Nebraska also offered the Vietnamese certification examination in 2001. Three individuals took this examination; none passed.

Grading the certification examinations is expensive. While charging the applicant a $100 fee in part offsets the cost of grading the examination, no certification examinations were offered in 2002 due to budget limitations.

The greatest need in the state of Nebraska is for Spanish language interpreters. The Administrative Office of the Courts estimates that 85% of the requests received since the certification process was instituted have been for a Spanish interpreter. Of the remaining 15%, approximately 10% of the requests have been for an interpreter of another language, and 5% have been for a sign language interpreter.

Efforts on the part of the Nebraska Administrative Office of the Courts to address the growing problem of adequate language interpreters have met with some success thus far. In fact, at a public hearing, one interpreter who routinely works for the court commented on the positive change with regard to the quality of interpreter services in Nebraska:

> In 12 years I have seen a lot of changes, and I'm very happy to report that they have all been in a more positive manner. When I first came here, anybody could be an interpreter in the court, and many times the court didn't bother to get qualified people for the court. And anybody that could, just because they spoke a little Spanish, was considered a competent translator or interpreter. And many times none of these people had any idea what they were doing.

Workshops and Training Programs

A number of programs and workshops to address the improvement of interpreter services have already been organized and implemented. For instance, two consortium-certified interpreters presented a two-day court interpreter orientation program to the state's interpreters in both 2000 and 2001. The Administrative Office of the Courts plans to continue the orientation program in the future.

Prior to the work of this Task Force, the Nebraska Supreme Court completed a report on interpreter services in 1996. According to the survey of the Nebraska Supreme Court Task Force on Court Interpreters, 7% of Nebraska judges felt "very competent" in "gauging the aptitude of the language interpreters" in their courtroom. Thirty percent felt that they were "adequately competent," 40% felt that they were "less than adequately competent," and 23% of all respondents felt that they were "not competent." These findings demonstrated at the time a need for training on how to best utilize interpreter services in the courtroom.

In the fall of 2001, Nebraska judges participated in a three-hour interactive training session. The purpose was to inform judges on ways to increase the quality and access to interpreter services in their courtrooms. For instance, judges were taught how to spot an interpreter who is failing to provide adequate

services or a court participant who needs interpreter services but is afraid to ask (Nebraska Supreme Court Task Force on Court Interpreters: Comparative Research Summary and Proposal 1996). A similar training session was offered to lawyers at the Nebraska State Bar Association's Annual Meeting in October of 2002. In addition, the Nebraska federal court has begun to offer a 12-week "survival" Spanish course at no cost to all employees and lawyers admitted to practice in the court in an effort to increase the basic language and cultural skills of its judges, lawyers, and other employees.

Finally, the Nebraska State Bar Association's Volunteer Lawyers Project held a training seminar for individuals with Spanish-English bilingual speaking abilities in south Omaha on September 25, 2002, in an effort to provide individuals with the skills needed to do consecutive interpretation of legal proceedings as well as work with lawyers to increase the level of communication for noncourt-related communication with Spanish-speaking clients. Although completion of this seminar does not grant certification status to the interpreter, the Nebraska State Bar Association and Volunteer Lawyers Project recognize a growing need for interpreters in south Omaha and hope to increase the pool of qualified interpreters.

Appointment and Payment

Once a judge has determined a need for an interpreter as set forth by case law the appointment is made in accordance with Neb. Rev. Stat. § 25-2403 (Reissue 1995), which states, "In any proceeding the presiding judge shall appoint an interpreter to assist any person unable to communicate the English language for preparation and trial of his or her case" (see also *State v. Topete*, 221 Neb. 771, 380 N.W.2d 635 (1986), *Martinez v. Peterson*, 212 Neb. 168, 322 N.W.2d 386 (1982), Neb. Rev. Stat. § 25-2403 (Reissue 1995)). By rule of the Nebraska Supreme Court, "Whenever an interpreter is required to be appointed by a court, the court will first attempt to appoint a certified court interpreter who is listed on the statewide register of interpreters if one is reasonably available" (Nebraska Supreme Court Rules Relating to Court Interpreters: Rule 2: Appointment of Interpreters). One of Nebraska's six certified interpreters testified that some courts are not complying with this Supreme Court rule:

> I have less work now as a certified interpreter than I did before and the court systems in the surrounding counties are using an interpreter who is not certified and I honestly do not have a problem with this person because I have observed and worked with this person for years and even though they are not certified, I believe them to be very qualified. So my problem is not that. My problem is that when that interpreter is not available, I will not be called. I am the last person these people call for me to go and serve in their courtroom. They will pull anybody off the streets before they call me…. [The Supreme Court rule that whenever an interpreter is required to be appointed by a court, the court will first attempt to appoint a certified interpreter] is not being complied with…. I hear complaints saying that there aren't enough interpreters or whatever, but at the same time I know that there is discrimination and bias for wanting to work with certain people who they have relationships with and at the same time still don't know what their qualifications are and will continue to use them anyway because of the relationships that they have established. So I feel that this is a discrimination and injustice to the defendants, the people needing the assistance of a language interpreter because their rights are put into jeopardy, their Constitutional rights are put into jeopardy.

Despite the story related above, many parts of the state do not have access to a certified interpreter. Thus, with so few certified interpreters available, noncertified interpreters are hired to interpret locally by the county and district court clerks. In Nebraska, there is no court-approved voir dire

for judges to use in order to determine the qualifications of uncertified interpreters. Through supplementary testimony, one certified interpreter offered the following:

> I believe that the people in the administrative positions are not taking the time to really find out who are the people that they have working for them on that capacity or just because of the sake of time are just pulling the first person that comes in their presence and says, "I am bilingual" or, "I can serve as an interpreter" and are truly not qualified or competent to serve…. Her name [referring to a woman known by this certified interpreter who has received no formal education and reads at approximately a second grade level] is on the registrar of court interpreters of the state because the state has issued a check to her for her services…. This is a person who does not have the language skills or capacity to serve [as an interpreter]…. If the state has issued someone a check for interpreting services their name appears on the register, on the roster of court interpreters.

In some instances, telephone interpreters may be used, such as when interpreters are not available for particular languages. Telephone interpreters routinely are used to assist persons speaking a language in which there are no certified or even noncertified interpreters in the region. AT&T Language Line is an option for courts, but in most cases is slightly more expensive than using a standard interpreter. Several counties report a positive experience with Language Line. Specifically, a representative from the Hamilton County Court mentioned the court's use of Language Line largely has been successful.

As set forth in state law, "the fees and expenses of an interpreter shall be fixed and ordered paid by the judge before whom such proceeding takes place, in accordance with a fee schedule established by the Supreme Court, and be paid out of the General Fund with funds appropriated to the Supreme Court for that purpose" (Neb. Rev. Stat. § 25-2406 (Cum. Supp. 2002)). As interpreted by the Administrative Office of the Courts, this statute applies to all legal proceedings, including both criminal and civil court proceedings as well as probation services. Through public testimony and comments on the Bar survey, several members of the Nebraska State Bar Association expressed concern about potential confusion over payment for interpreter services. One Bar member wrote:

> My most recent experience took place just last week. While sitting in county court waiting for my case to be called, two cases were called in which the defendants in a restitution case spoke Spanish. One gentleman spoke some English, the other spoke almost none. When each case was called, the judge asked them, in English, and with a rather loud voice, "Do you have an interpreter? You have to pay for your own." He told the gentleman to wait to the end of the docket. I asked the gentleman to step into the hallway. With my little knowledge of Spanish I was able to determine that the gentleman who spoke no English claimed to have a defense and wanted to be heard. I returned to the courtroom and informed the lawyer representing the plaintiff that I was going to stick around until this case was heard, and that if the court did not provide an interpreter, I would assist this man in asserting that right…. When the case was called the plaintiff had a Spanish-speaking employee there. The judge again asked the defendant if he had an interpreter, and that he would need to pay for it. The judge, having seen me sitting with the defendant, asked me to come forward. I asserted that this man was not my client, but that I thought he was entitled to an interpreter, as he had no money to pay for one. The judge granted a continuance of one week so that the Spanish-speaking lawyer in my office could discuss his case with him.

Several similar comments were made in both the public hearings and on the surveys returned by Bar members and court employees. A main area of confusion concerns whether the county pays for interpreters in civil matters. On more than one occasion, the Task Force was informed of judges refusing to appoint an interpreter for civil cases.

While the state pays for in-court interpretation, it is the county's responsibility to pay for out-of-court interpretation for indigents such as lawyer-client meetings or other services necessary to the case. For instance, the Lancaster County Public Defender's Office, like most other county public defender offices, has a budget set aside to pay for interpreter services during lawyer-client meetings. In other instances the lines of payment become blurred. Some view this extension of services as a supplementary or auxiliary service, similar to an alcohol abuse evaluator, and thus refuse to pay.

Regarding payment for interpreter services in the probation setting, state law pronounces that "the cost of interpreter services for deaf and hard of hearing persons and for persons unable to communicate the English language shall be paid by the state with money appropriated to the Supreme Court…. Interpreter services shall be provided under this section for the purposes of conducting a presentence investigation and for ongoing supervision by a probation officer of such persons placed on probation" (Neb. Rev. Stat. § 29-2259(6) (Cum. Supp.2002)).

Through supplementary testimony, a certified interpreter related a conversation that the interpreter recently had with a judge, in which the judge expressed concern about interpreter services in the probation setting:

> (The judge speaking to the interpreter) …if they're not having proper interpreters, qualified interpreters and they don't understand the conditions of their probation then they are going to be violated on their probation and then who is responsible when that person comes back to court on a violation of probation. Whose fault is it really?

Diversion, on the other hand, is controlled by individual counties and the private entities hired by the county to administer diversion opportunities. Not all counties offer the spectrum of diversion options available to the more populous counties. Many less populous counties only offer diversion for drug or alcohol offenses or for juvenile offenders. A member of the Nebraska State Bar Association commented on this problem when returning the Bar survey.

> It is difficult for non-English-speaking defendants to fulfill probation or diversion requirements due to lack of interpreters, and as a result these defendants are not afforded the opportunity to cooperate with those alternatives to jail time.

In addition, accommodations for non-English-speaking individuals differ across county lines. For instance, Douglas County provides county-paid interpreters for non-English-speaking persons in a diversion program after being charged with felony offenses, but that same option is not available to those charged with misdemeanors. The majority of other counties' diversion programs require individuals to provide their own interpreters, thereby creating financial barriers for lower-income offenders leading to more non-English speakers incarcerated and accumulating criminal records for offenses that would have generated diversion opportunities for English speakers.

Translated Court Documents

While individual counties, most notably Lancaster and Douglas, have commissioned translation of numerous court documents in Spanish and other languages, including several Asian languages, only a handful of documents routinely used by the courts across the state have been translated into Spanish.

These translated documents include traffic waivers, small claims forms, and financial affidavits. Translation of protection order papers is also under consideration, but as yet has not been mandated statewide. Some local courts have translated an advisement of rights document for use by Spanish-speaking individuals.

When individual counties undertake this process, however, the product does not always meet an adequate standard. As witnessed by the quotation below from a certified translator, it may be that the interpreters and translators used by the district and county courts do not have the appropriate skills to translate court documents.

> I was handed a document that was translated from English that was the instructions on the court procedure and their Constitutional rights. This document is so poorly translated that there are no words to express the lack of language knowledge. It is just…there are no words to express the atrocity of this document…. The interpreter that they are using is somebody that they feel is a qualified person and I don't know that anybody has ever asked or really prodded this person to find out what their real qualifications, education level, and language skills are and they continue to use people on this level.

Court Personnel and Bar Perceptions of Interpreter Services

The Minority and Justice Task Force conducted surveys of all Nebraska court personnel as well as all members of the Nebraska State Bar Association. A complete discussion of the methodology for each survey is included in the Research Methods section.

These surveys asked several questions regarding interpreter services in the state of Nebraska. More than half of all Bar members (59.3%) responding to the survey reported that in the past two years they had a client or witness who needed a language interpreter. Additionally, 45.2% of Bar members reported that they have had a client in the past two years who would have benefited from translated documents.

Table 1-19: Needed an Interpreter or Benefited from Translated Documents

		Client or Witness Needed An Interpreter			Client Would Have Benefited From Translated Documents	
Bar Members	Number	Yes	No	Number	Yes	No
White	777	59.1%	40.9%	666	44.4%	55.6%
Minority	43	62.8%	37.2%	39	59.0%	41.0%
Total	820	59.3%	40.7%	705	45.2%	54.8%

Whether interpreters have been made available is a different issue. The tables below indicate that in their experience in the Nebraska justice system, 53.9% of Nebraska State Bar Association respondents who stated that they have had clients who needed or would have benefited from an interpreter thought that interpreters have "always" been available for court participants who did not speak English. Judging from the table below, minority Bar respondents are less likely to feel that interpreters are widely available than are whites.

Table 1-20: Interpreter Availability

Bar Members	Number	Always	Often	Sometimes	Seldom	Never
White	413	55.2%	29.5%	10.9%	4.1%	0.2%
Minority	21	28.6%	19.0%	47.6%	0.0%	4.8%
Total	434	53.9%	29.0%	12.7%	3.9%	0.5%

Through supplementary testimony, several individuals recommended a more permanent court interpreter program, with interpreters hired as full time employees or partnered with other governmental agencies that have a need for interpreters, like the law enforcement or health care fields.

The appointment of an interpreter is largely left to the discretion of the court. A majority of white court personnel (79.1%) and 49.8% of white members of the Nebraska State Bar Association responded that judges always make every effort to accommodate non-English-speaking defendants and witnesses, while 58.6% of minority court personnel, and 26.5% of minority Bar members responded, in the same manner.

Table 1-21: Judges Make Every Effort to Accommodate Non-English Speakers

Court Personnel	Number	Always	Often	Sometimes	Seldom	Never
White	220	79.1%	15.0%	5.0%	0.9%	0.0%
Minority	29	58.6%	17.2%	17.2%	6.9%	0.0%
Total	249	76.7%	15.3%	6.4%	1.6%	0.0%
Bar Members						
White	556	49.8%	38.3%	8.3%	3.2%	0.4%
Minority	34	26.5%	29.4%	35.3%	5.9%	2.9%
Total	590	48.5%	37.8%	9.8%	3.4%	0.5%

Through supplementary testimony, several Bar members expressed their concern with the quality of interpreter services. Specifically, the lawyers are concerned with the most basic civil rights of a defendant to avoid self-incrimination or to seek a jury trial. One such comment is cited below.

> My number one complaint relates to interpretive services. I've seen people enter a guilty plea to something when it's obvious they don't know for certain what is going on- if I'm not appointed counsel- I can't disrupt the judge- [I] usually find a family member in the courtroom and make them stop the plea- sometimes the judge catches the problem and won't accept the plea- so that's helpful. However, during a trial, clients often get 'lost.'

Improving Interpreter Services in Nebraska's Courts

Over three-quarters (81.0%) of the membership responding to the survey, feel that improving interpreter services and increasing the number and quality of translated documents is important. When delineated by race and ethnicity, minority respondents were more likely than whites to see this as important. Minority Bar members are even more likely to cite the need for improved services with 59.1% reporting that it is very important and another 27.3% saying that it is somewhat important.

Table 1-22: Improve Interpreter Services and Translated Documents

Bar Members	Number	Very Important	Somewhat Important	Not Important
White	641	29.8%	50.9%	19.3%
Minority	44	59.1%	27.3%	13.6%
Total	685	31.7%	49.3%	19.0%

Through supplementary testimony, the Minority and Justice Task Force received suggestions about methods to improve interpreter services in Nebraska. Several individuals believed that the procedures and customs of the courts should be more carefully explained to minority participants involved in legal proceedings before making any appearance in court. Additionally, many individuals believed that the availability of translated documents should be increased.

Nebraska interpreters are required to "render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written, and without explanation." (Nebraska Supreme Court Rules Relating to Court Interpreters, Code of Professional Responsibility for Interpreters: Canon 1: Accuracy and Completeness). However, as one certified interpreter explained, interpreters may not always comply with this court rule:

> I had a situation where I sat in the courtroom and I did not speak the language. I believe that it was an Indonesian defendant…. They had an interpreter there with the defendant and I was sitting in the courtroom and the interpreter was not speaking, was not relaying any information to the defendant as the process was going on. I brought this to the attention of the judge and the county lawyer and the judge instructed the interpreter to relay what was being said in the courtroom. The interpreter turned to the defendant and said a few words and stopped talking again. At the end of the process the judge said, 'Are you interpreting everything that was said?' and the interpreter responded, 'Yes' that they were, when it was quite obvious that the defendant got very little to nearly nothing of what had happened or transpired in his presence.

There are many areas that require improvement, including education for interpreters and court personnel, judges, and lawyers as to how to work with clients who do not speak English as a first language. In addition, the state should do more to encourage the certification of additional interpreters and increase availability of translated court forms.

Juries in the Nebraska Court System

The jury system is a fundamental element of the justice system. The assurance that a defendant will receive a trial by a representative group of his or her peers is essential to maintain confidence in the court system. Thus, steps must be taken to ensure that the methods of selection for jury pools, venire, and impaneled juries are fair. The Minority and Justice Task Force used several methods to examine the perception and reality of Nebraska juries.

The first and most important aspect of juries investigated by the Task Force was composition of the jury pools. Federal and state courts throughout the country have found minority underrepresentation in jury composition, most notably in the makeup of the jury pool from which the jury ultimately is selected. In fact, many researchers have found that this is "the rule" rather than the exception (New

Jersey Supreme Court Task Force on Minority Concerns 1992; Michigan Supreme Court Task Force on Racial/Ethnic Issues in the Courts 1989). Due to several barriers discussed in this section, it was impossible for the Task Force to generate statistics to document the degree to which actual underrepresentation exists. There exist, however, a number of data points to suggest that this underrepresentation is pervasive in Nebraska's county and district courts based on the methods used to select and impanel juries.

The lack of racial and ethnic representation can affect defendants and litigants alike. As other states have discovered, an underrepresentation of this type can affect the public's confidence in the justice system and subvert the institutional confidence necessary to rectify these effects. If a particular group feels that it is being excluded from jury service, trust in the jury system, as well as the legal system in general, is undermined (Michigan Supreme Court Task Force on Racial/Ethnic Issues in the Courts 1989, 46).

In surveys of the Nebraska State Bar Association members, court personnel, and a random sample of state residents, the Minority and Justice Task Force explored the extent to which Nebraska jury pools and panels are perceived to be representative of their communities. The results are presented below. National and state comparisons are made when applicable. First, respondents were asked about their impressions of the jury selection process. This includes the composition of the jury pool and jury selection process, the qualifications for jury duty, the "refreshing" of jury lists, and the payment process for juror service.

Compiling Nebraska's Jury Pools

Neb. Rev. Stat. § 25-1628 (Reissue 1995) outlines the process for selecting jury pools. All Nebraska counties are required to combine both the voter registration lists and the driver's license registration lists to compile the prospective jury pool. Table 1-23 illustrates the jury selection provisions of all U.S. states. Several studies, including other state research efforts, have concluded that voter registration lists alone create disproportionate representation of minorities (California Judicial Committee on Racial and Ethnic Bias in the Courts 1997; Florida Supreme Court Racial and Ethnic Bias Commission 1991; New York State Judicial Commission on Minorities 1992; Ohio 1999). "Various groups within the population are not equally likely to be registered," thus "a jury list drawn at random from the voter list underrepresents some categories by comparison with census figures—notably blacks, males, and people aged 18 to 34" (Kull, 1992). According to the 2000 U.S. Census, 71% of the total white non-Hispanic population reported being registered to vote in comparison to 67.5% of blacks, 57% of Hispanics, and 52% of Asians (U.S. Census 2000).

The Minority and Justice Task Force obtained statewide data from the Department of Motor Vehicles (DMV) to determine whether this method of creating jury pools systematically excludes minorities from the opportunity to serve on juries. The DMV provided data on all licensed drivers in the state of Nebraska including county, sex, race, and date of birth. This data, compared with 2000 U.S. Census showed that whites are more likely to be licensed drivers than minorities (blacks, Asians, and Native Americans and others). The DMV numbers include motorcycles, truck driver's licenses, and other multiple licensing situations. There is reason to believe that the DMV data are not entirely reliable, given that the DMV reports that there are 1.7 million licensed drivers in a state with approximately 1.7 million people, and a certain percentage of the populace cannot legally drive (those below the age of 15, etc.). Therefore, reliance on this data to determine whether Nebraska's jury pools systematically exclude minorities is not possible. Voter registration does not identify the race or ethnicity of the registrant, hence this data cannot be examined to assess the diversity of the jury pool.

Table 1-23: Sources for Juror Pool Master Lists

	VR	DL	TR	UC	MVR	TD	CD	OS
Alabama	X	X	X	X	X			
Alaska								X
Arizona	X	X						
Arkansas	X							
California	X	X		X				X
Colorado	X	X					X	
Connecticut	X	X	X			X		
Delaware	X							
District of Columbia	X	X						
Florida								X
Georgia	X							
Hawaii	X	X	X					
Idaho	X	X	X	X	X			
Illinois	X	X						X
Indiana	X	X	X	X	X	X	X	
Iowa	X	X		X				
Kansas	X	X						X
Kentucky	X	X						
Louisiana	X	X						
Maine		X						X
Maryland	X							
Massachusetts								X
Michigan		X						X
Minnesota	X	X						
Mississippi	X							
Missouri	X	X						X
Montana	X							
Nebraska	X	X						
Nevada	X							
New Hampshire		X						
New Jersey	X	X	X					X
New Mexico	X	X						
New York	X	X	X					X
North Carolina	X	X						
North Dakota		X	X	X	X			X
Ohio	X	X						
Oklahoma		X						X
Oregon	X	X						
Pennsylvania	X		X			X	X	X
Puerto Rico								X
Rhode Island	X	X			X			X
South Carolina	X	X						
South Dakota	X	X						
Tennessee	X	X	X					
Texas	X	X						
Utah	X	X						
Vermont	X	X						X
Virginia	X	X	X			X	X	
Washington	X	X						
West Virginia	X	X	X					X
Wisconsin	X	X	X	X		X		X
Wyoming	X	X						

VR = Voting Registration
DL = Driver's License
TR = Tax Roll
UC = Utility Customer Lists
MVR = Motor Vehicle Registration
TD = Telephone Directory
CD = City/County Directory
OS = Other Sources

Source: State Court Organization 1998, Bureau of Justice Statistics

Table 1-24: Juror Service Restrictions and Pay Statutes

State	Minimum Age	Time Since Prior Jury Service	Employer Pays?	Jury Fees (Per Day)
Alabama	19	No Restriction	Yes	$10
Alaska	18	1 year or 3 months in 2 years	No	$25
Arizona	18	Varies	No	$12
Arkansas	18	2 Years	No	$20
California	18	1 Year	No	$5
Colorado	18	1 Year	Yes	$0 for 3 days, then $50
Connecticut	18	2 years	Yes, first 5 days only	$0 for 5 days, then $50
Delaware	18	No Restriction	No	$20
District of Columbia	18	2 Years	Yes, up to 5 days	$30
Florida	18	1 Year	No	$15 for first 3 days, $30 after
Georgia	18	No more than 4 weeks in 1 year	Yes	$5-$35
Hawaii	18	1 Year	No	$30
Idaho	18	No more than 10 days in 2 years	No	$10 for half day
Illinois	18	No Restriction	No	$4-$15.50
Indiana	18	1 Year	No	$7.50 not selected, $17.50 selected
Iowa	18	3 months of service in 2 years	No	$10
Kansas	18	1 Year	No	$10
Kentucky	18	1 Year	No	$13
Louisiana	18	2 years	No	Various, not to exceed $25
Maine	18	No more than 15 days in 5 years	No	$10
Maryland	18	3 Years	No	$10-$20
Massachusetts	18	3 Years	Yes, first 3 days	$50/day after first 3 days
Michigan	18	1 Year	No	$15 min.
Minnesota	18	4 Years	No	Rate set by Supreme Court
Mississippi	21	2 Years	No	$25
Missouri	21	1 Year	No	$6
Montana	18	1 Year	No	$25
Nebraska	19	No more than 4 weeks in 5 years	Yes, minus $35	$35
Nevada	18	1 Year	No	$15 for first 5 days, then $30
New Hampshire	18	3 Years	No	$10 for half day
New Jersey	18	3 Years	Yes, minus $5	$5
New Mexico	18	3 Years	No	Min. wage
New York	18	4 Years	Partial	$40
North Carolina	18	2 Years	No	$12 for first 5 days, then $30
North Dakota	18	2 Years	No	$25
Ohio	18	1 Year	No	Varies
Oklahoma	18	2 Years	No	$20
Oregon	18	2 Years	No	$10
Pennsylvania	18	1 Year or 3 Years if service 3+ days	No	$9 first 3 days, then $25
Puerto Rico	18	1 Year	No	$20 min.
Rhode Island	18	2 Years	No	$15
South Carolina	18	3 Years	No	$2-$12
South Dakota	18	2 Years	No	$40
Tennessee	18	2 Years	No	$10 min.
Texas	18	3 to 6 months	No	$6-$50
Utah	18	2 Years	No	$18.50 for first day; $49 after
Vermont	18	No more than 3 times in 2 years	No	$30
Virginia	18	3 Years	No	$30
Washington	18	1 Year if served more than 2 weeks	No	$10-$25
West Virginia	18	2 Years	No	$15
Wisconsin	18	4 Years	No	$16 minimum
Wyoming	18	Remainder of calendar year	No	$30 for first 5 days, then $50

Source: Bureau of Justice Statistics, State Court Organization 1998.

Jury Qualifications

Currently, the system by which Nebraska juries are selected suggests the existence of barriers to full participation, thus creating jury pools that are not reflective of the diversity of the community. Neb. Rev. Stat. § 25-1601 (Reissue 1995), provides in part as follows:

> All citizens of the United States residing in any of the counties of this state who are over the age of nineteen years, able to read, speak, and understand the English language . . . are and shall be competent persons to serve on all grand and petit juries in their respective counties. Persons disqualified to serve as either grand or petit jurors are. . . persons who have been convicted of a criminal offense punishable by imprisonment in a Department of Correctional Services adult correctional facility, when such conviction has not been set aside or a pardon issued. . . .

Table 1-24 shows the major jury restrictions and payment provisions for all U.S. states. The Task Force recognizes that any qualifications devised for jurors will limit some individuals' ability to participate as jurors. For example, age, window of service, and language requirements may limit the diversity of jurors in some cases and locations.

Refreshing Jury Lists

There is no Nebraska statute mandating that jury lists be periodically refreshed. Neb. Rev. Stat. § 25-1628 (Reissue 1995) provides that the officer having charge of election records shall furnish to the jury commissioner a complete list of the names, dates of birth, and addresses of all registered electors 19 years of age or older in the county. The same statute states that upon request, the DMV provides updated lists to jury commissioners on the first of December each year. Therefore, both components of the list are obtained at the discretion of the jury commissioner.

There are anecdotal reports that these lists are not updated at reasonable increments. Thus, the lists can remain unchanged for years, even decades. Although the demographics of many Nebraska towns have changed over the years, the juries likely do not reflect these demographic changes.

Payment for Jury Service

While other state reports have recommended increasing juror pay as a technique to increase voluntary participation on juries (California Judicial Committee on Racial and Ethnic Bias in the Courts 1997; Iowa Equality in the Courts Task Force 1993; Report of the Ohio Commission on Racial Fairness 1999) Nebraska appears relatively progressive with respect to other Midwestern states. Other states, like Iowa or Kansas for example, pay only $10 a day (plus mileage) and jurors are not guaranteed the wages from their employer. This may cause economic hardship for those not on salary. Currently, Nebraska statute requires that each juror be paid $35 per day, plus mileage (Neb. Rev. Stat. § 33-138 (Reissue 1998)). State law prohibits employers from punishing employees for serving on juries, thus jury members may not be fired or lose sick leave or vacation time. Employers—who must be notified by their employees of their pending jury service within a reasonable time frame—are required to excuse their employees from their position for jury service (Neb. Rev. Stat. § 25-1640 (Reissue 1995)). Employers are required to continue paying the employee's normal compensation while serving jury duty. Employers, however, are allowed to reduce their employees' pay by the $35 per day that the court guarantees them (Ibid.). While Nebraska appears to ensure protection of wages for the employed, $35 a day may not be enough for the self-employed or those who may not be employed but who care for children or the elderly.

Public Perception of the Jury System

According to the Nebraska Annual Social Indicators Survey (NASIS), the majority of Nebraskans (87.2%) agreed that "it is important that juries reflect the racial and ethnic makeup of the community." This belief is true across racial and ethnic groups with high levels of support from black (87.9%), Hispanic (90.6%), and white Nebraskans alike (87.1%).

Table 1-25: Juries Should Reflect the Racial and Ethnic Makeup of the Community

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	1,110	29.9%	57.2%	11.6%	1.2%
Black	132	45.1%	42.8%	9.7%	1.5%
Native American	27	25.9%	55.5%	11.1%	7.4%
Hispanic	75	36.0%	54.6%	8.0%	1.3%
Total	1,344	31.6%	55.6%	11.2%	1.4%

Respondents also were asked to select whether juries in Nebraska are in fact representative of their communities. The responses are not broken down by specific minority groups due to the small number of minority respondents. While the majority of respondents (63.0%) believed that in general, Nebraska juries are representative of the racial and ethnic makeup of their communities, minority respondents (39.2%) were much less likely to feel that juries represent their communities. As Michigan's study of jury composition suggests, the legal system is undermined when one or more groups feel the jury system does not fairly reflect the community at large. Table 1-26 elaborates on these differences by the minority status of the respondent. The difference between white and minority response is statistically significant.

Table 1-26: Juries Are Not Representative of the Community

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	880	3.4%	28.2%	61.8%	6.6%
Minority	199	15.6%	45.2%	35.2%	4.0%
Total	1,079	5.7%	31.3%	56.9%	6.1%

Data from the Nebraska-wide survey therefore suggest that although the majority of Nebraska residents (87.2%) believed that it is important that juries reflect the racial and ethnic makeup of the community, many respondents (37.2%), especially minority respondents (61.4%), believed that juries in general are not representative of their communities.

Court Personnel Perceptions of Jury System

The survey of Nebraska court personnel addressed the perception of jury representation. Results suggest that 85.1% of court personnel agreed that "in general, Nebraska jury pools represent the community at large." However, this attitude was not consistent across races. While 88.5% of whites either strongly agreed or agreed with this statement, 45.5% of minority respondents strongly agreed or agreed that jury pools in Nebraska represent the community at large.

Table 1-27: Jury Pools Represent the Community at Large

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	253	30.4%	58.1%	10.3%	1.2%
Minority	22	18.2%	27.3%	36.4%	18.2%
Total	275	29.5%	55.6%	12.4%	2.5%

Court personnel also specifically were asked about racial and ethnic minority representation in juries. Results from the survey of court personnel demonstrate that 58.9% responding to the survey agreed that "racial and ethnic minorities are adequately represented on jury panels." Once again, a large discrepancy exists in the perceptions of white and minority court employees. While 64.6% of white court employees agreed that "racial and ethnic minorities are adequately represented on jury panels," 26.3% of minority court employees responding to the survey agreed with this statement. This discrepancy again illustrates one reason that a racial or ethnic minority may perceive that Nebraska's trial by jury system is skewed toward white litigants and defendants and not minorities in similar situations.

Table 1-28: Racial and Ethnic Minorities Are Adequately Represented on Juries

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	110	5.5%	59.1%	28.2%	7.3%
Minority	19	10.5%	15.8%	31.6%	42.1%
Total	129	6.2%	52.7%	28.7%	12.4%

Bar Perceptions of the Jury System

Results from the survey of Bar Association members are comparable to findings from the court personnel survey. Over half (60.2%) of Bar members responding to the survey felt that "racial and ethnic minorities are adequately represented on jury panels." More than three-quarters (77.4%) of minority Bar members responding to the survey reported the exact opposite conclusion, that Nebraska's minorities are not adequately represented on juries, whereas 37.4% of white Bar members responded that racial and ethnic minorities are not adequately represented on juries.

Table 1-29: Racial and Ethnic Minorities Are Adequately Represented on Juries

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	487	8.8%	53.8%	25.7%	11.7%
Minority	31	3.2%	19.4%	25.8%	51.6%
Total	518	8.5%	51.7%	25.7%	14.1%

A significant relationship exists between the geographic location of Bar members and the extent to which they believe minorities are adequately represented on juries. While an overwhelming majority of Nebraskans of all races and ethnicities feels it is important to have juries that represent the community, minority lawyers and lawyers from geographically diverse areas (Lancaster County, Douglas County, Sarpy

County, etc.) of the state are even more likely to believe Nebraska's jury pools underrepresent racial and ethnic minorities.

Many states have documented the pattern and perception that racial and ethnic minorities are not adequately represented on their juries. These states have identified two major factors: 1) peremptory challenges based on race and 2) the jury selection process (California Judicial Committee on Racial and Ethnic Bias in the Courts 1992; Florida Supreme Court Racial and Ethnic Bias Commission 1991; Michigan Supreme Court Task Force on Racial/Ethnic Issues 1989; New York State Judicial Commission on Minorities 1992; Ohio Commission on Racial Fairness 1999; Oregon Supreme Court Task Force on Racial/Ethnic Issues 1994).

Peremptory Challenges

The perception that minorities are removed during the voir dire process on the basis of race has surfaced in several other state research findings (New York State Judicial Commission on Minorities 1992; Ohio Commission on Racial Fairness 1999; Oregon Supreme Court Task Force on Racial/Ethnic Issues 1994). These findings are disturbing in light of the U.S. Supreme Court's 1986 decision in *Batson v. Kentucky*, 476 U.S. 79, 106 S. Ct. 1712, 90 L.Ed.2d 69 (1986). In an opinion authored by Justice Lewis Powell, the Supreme Court held 7-2 that racial discrimination in the selection of jurors not only deprives the accused of important rights during a trial, but also is devastating to the community at large because it "undermines public confidence in the fairness of our system of justice." Because the prosecutor did not identify a "neutral" reason why the four blacks in the venire were excluded from the impaneled jury, the prosecutor's actions violated the defendant's right to jury of his peers, the Supreme Court determined.

The Bar survey inquired about lawyers' perceptions of whether race or ethnicity was considered when using peremptory challenges in the state of Nebraska. The results indicate that 76.9% of Bar members agreed with the statement: "Lawyers consider race and ethnicity when exercising peremptory challenges." While a majority of both white and minority Bar members agreed with this statement, again minority Bar members differ from their white colleagues, agreeing with the statement at a substantially higher percentage (92.5%) than white Bar members (75.8%).

Table 1-30: Lawyers Consider Race in Peremptory Challenges

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	583	13.2%	62.6%	19.6%	4.6%
Minority	40	27.5%	65.0%	2.5%	5.0%
Total	623	14.1%	62.8%	18.5%	4.7%

Further analysis of the Bar survey results suggests that race is considered when exercising peremptory challenges, and that is particularly true when one examines the data from diverse and populous counties. Lawyers from Douglas County are substantially more likely to feel that lawyers consider race and ethnicity when exercising peremptory challenges than lawyers from the rest of the state.

The use of peremptory challenges to eliminate diversity from Nebraska's juries is difficult to track. In a focus group discussion with minority lawyers from around the state, one participant argued that the race of the lawyer may have an effect on whether peremptory challenges are used to eliminate black jurors.

> There have been a couple times where I thought that some of the black jurors on a jury pool that I had may have been stricken because of who I was when it's not a race case…. And I have had a couple of situations where it might have been my perception that the other lawyer struck the black jurors from the pool when it had

> nothing to do with their responses to the question or where they may have been thinking, well, I don't want him to identify with them and make a decision based on that. It hasn't happened often. I have kind of been on the fence whether did that really happen or were they stricken for that reason or something like that.

The Task Force is concerned with the makeup and selection process for juries in the state. While Nebraska has one of the best juror compensation packages in the country, it is not clear that jury pools are reflective of the state's racial and ethnic makeup. The U.S. Supreme Court will review the use of peremptory challenges this year in *Miller-El v. Cockrell*, 261 F.3d 445 (5th Cir. 2001), *cert. granted*, ___ U.S. ___, 122 S. Ct. 1202, 152 L.Ed.2d 141 (2002).

Jurors' Experiences and Attitudes

Nebraska juries are selected using a three-step process. First, the names of those Nebraskans either registered to vote or licensed by the state to operate a motor vehicle serve as the "population" of qualified jurors in that jurisdiction. From this list, a group of potentially eligible persons is randomly selected and called for jury service. These people comprise the jury pool. On the date of jury selection, members of the pool are randomly selected to be potential jurors. This group is known as the venire. The lawyers and judge question the potential jurors who make up the venire. Based on their responses and other criteria included in the juror questionnaire, venire participants may be excused "for cause" or by the lawyers' exercise of "peremptory challenges." After the selection process, a set number of jurors, usually 12 at the district court level and six at the county court level, are impaneled to hear the case.

As previously noted, there are concerns that the eligibility criteria, voter registration and driver's license lists, may not accurately reflect the diversity of the community. The Task Force attempted to measure the degree to which these criteria exclude members of specific groups from jury service. The data necessary to undertake that research is not available, however, since voter registration forms do not account for the race or ethnicity of the registrant.

Since there exist no objective data to measure potential jury pool underrepresentation, the Task Force inquired as to Nebraskans' experiences as jurors in an attempt to assess the likelihood of being selected. Of the 1,473 Nebraskans surveyed by the Task Force in the NASIS survey, 820, or 55.7%, responded that they had been in a Nebraska court of law at some point in their adult life. Of these 820, 39.6% were called for jury duty. Ten were removed from Table 1-32 because they did not identify their race or ethnicity. Of the remaining 315 called for jury duty, 268 were white, 25 were black, 16 were Hispanic, and six were Native American. Table 1-31 shows the percentage of these people who actually served on a jury.

Table 1-31: Surveyed Nebraskans Called for Jury Service

	Number	Impaneled	Not Impaneled
White	268	44.4%	55.6%
Black	25	32.0%	68.0%
Hispanic	16	25.0%	75.0%
Native American	6	33.3%	66.7%
Asian	0	0.0%	0.0%
Total	315	42.2%	57.8%

Jury Selection Process

White respondents who reported having been called for jury duty were substantially more likely to be impaneled than minority respondents. From the data collected by the Task Force, it is impossible to know, with any degree of certainty, if this underrepresentation is a function of bias in the selection process, a random occurrence based on the small sample size, or facially neutral criteria (like education) used by lawyers in the selection process which unintentionally but disproportionately affect racial and ethnic minorities.

These findings led the Task Force to investigate the specific jury selection processes in select counties (Douglas, Lancaster, and Hall). These were selected because they are three of the four most populous Nebraska counties, with the most criminal and civil cases. They are also three of the most diverse Nebraska counties and thus most likely to call minorities for jury service. According to the 2000 U.S. Census, Douglas County is 21.8% diverse, Hall County is 16.3% diverse, and Lancaster County is 11.3% diverse.

The most extensive examination occurred in Lancaster County, where researchers selected a number of criminal and civil cases to watch over the summer of 2002. Voir dire was observed for 15 civil (13 in district court, 2 in county court) and eight criminal cases (all in district court) between April and August of 2002. During this sample period there were a total of 25 civil jury trials in district court, three civil jury trials in county court, and 17 criminal jury trials in district court. Therefore, the Task Force witnessed the jury selection process for over half of the civil jury trials (52.0%) and nearly half of the criminal district court jury trials (47.1%) that took place in Lancaster County over that time period.

Again, due to insufficient data, the racial composition of those eligible for jury duty is not known. The Task Force collected data for those selected for the venire and the impaneled jury. Results from both civil and criminal cases are presented below in Tables 1-32 and 1-33. Cases that had more than 12 jurors include alternates. The findings from the civil trials suggest that minorities comprise 3.5% of venire and 3.3% of impaneled juries. In this relatively small sample, it would appear that minorities (60.0%) and whites (64.3%) have a similar likelihood of being impaneled.

Table 1-32: Composition of Juries in Civil Cases in Lancaster County

	Venire		Impaneled Jury**	
Case*	White	Minority	White	Minority
Civil Case #1	15	3	10	2
Civil Case #1	18	0	12	0
Civil Case #2	22	0	12	0
Civil Case #3	18	0	12	0
Civil Case #4	17	1	11	1
Civil Case #5	22	2	11	1
Civil Case #6 (County Court)	12	0	6	0
Civil Case #7	NA	NA	13	1
Civil Case #8	19	0	12	0
Civil Case #9	18	2	12	0
Civil Case #10	18	1	11	1
Civil Case #11 (County Court)	13	0	6	0
Civil Case #12	20	1	12	0
Civil Case #13	21	0	12	0
Civil Case #14	21	0	13	0
Civil Case #15	21	0	12	0
Total	275	10	177	6

*All civil cases were held in district court except where identified.
**Cases that have more than 12 jurors include alternates.

While the percentages of minorities and whites impaneled are very similar, the overall number of minorities selected in a venire is substantially lower than the predicted percentage. The racial and ethnic composition of Lancaster County is 88.7% white and 11.3% minority, yet 3.5% of those in the venire were racial or ethnic minorities. There are several possible explanations for the low percentage of minorities in the venire. First, it could be a random occurrence in which the venire for the selected cases just happened not to be representative of the racial and ethnic makeup of the community. Second, minorities invited to serve may have been more likely to self-select out of jury duty prior to the venire process. This is often done in instances where individuals are providing child or elder care. Finally, Lancaster County may select its juries in a way that does not give every adult citizen (registered to vote or licensed to operate a motor vehicle) an equal opportunity to be selected. Regardless of the reason, Lancaster County minorities were substantially underrepresented in the jury selection process for civil trial cases from April to August of 2002.

Table 1-33 illustrates the data collected for eight Lancaster County criminal cases over that same period. The data suggest that minorities once again comprised approximately 3.0% of those invited for jury service. In the case of criminal trials, however, only two minorities were impaneled. In this sample, 44.7% of potential jurors were white, and 28.6% of potential minority jurors were impaneled to serve on a Lancaster County criminal trial over the summer of 2002. While a Nebraska minority is nearly six times more likely to be a criminal defendant than a white Nebraskan, these data suggest that minorities are substantially underrepresented, given the county's racial and ethnic diversity, when it comes to venire and impaneled juries.

Table 1-33: Composition of Juries in Criminal Cases in Lancaster County

	Venire		Impaneled Jury*	
Case	White	Minority	White	Minority
Criminal Case #1	26	2	13	0
Criminal Case #2	39	0	12	0
Criminal Case #3	27	0	13	0
Criminal Case #4	20	3	12	2
Criminal Case #5	33	1	13	0
Criminal Case #6	25	1	13	0
Criminal Case #7	25	0	12	0
Criminal Case #8	33	0	13	0
Total	228	7	101	2

*Cases that have more than 12 jurors include alternates.

Juror Perceptions

Jurors who participated in the aforementioned trials were invited to take a survey that inquired about their service. One question of particular interest to the Task Force was whether these jurors felt race or ethnicity was a factor in the elimination of minorities during the venire process. Many jurors (37.6%) responded that race was not a factor in the elimination of minority jurors. The majority of jurors (61.7%), however, reported that there were no minorities eliminated from the jury. This is not surprising given that in more than half of the trials there were no minorities in the jury panel to eliminate, and in at least two of the trials, all of the minorities in the jury panel were chosen for the final jury.

Table 1-34: Race Was a Factor in the Elimination of Lancaster Minority Jurors

	Number	Yes	No	No Minorities Were Eliminated
White	143	0.0%	37.8%	62.2%
Minority	6	16.7%	33.3%	50.0%
Total	149	0.7%	37.6%	61.7%

In addition to Lancaster County, the same survey was administered to jurors and those called for jury service in Hall and Douglas Counties during the same period. The pool of respondents in Douglas and Hall Counties included only those who actually served on a jury. The juror list provided by Douglas County included all persons called for jury service and not just those who actually served. Thus, the Douglas County response pool fluctuates based on whether the question refers to the specific trial for which the juror served.

The jurors were asked both experiential questions, those related specifically to their experiences as a juror, and their perceptions of the court system. For instance, the Task Force inquired as to the extent jurors believed that the jury on which they served reflected the racial and ethnic composition of the community. As witnessed in Table 1-36, respondents from Lancaster County were substantially more likely to either strongly disagree or disagree (64.1%) with the statement that their juries reflected the racial and ethnic composition of the community than were jurors from Hall (37.2%) or Douglas (37.8%) Counties. While the Task Force does not know the racial composition of the Hall and Douglas County juries on which these respondents served, the diversity of Lancaster juries is shown Tables 1-32 and 1-33.

Table 1-35: Your Jury Reflected the Racial and Ethnic Composition of the Community

Lancaster County	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	146	6.2%	30.8%	51.4%	11.6%
Minority	7	0.0%	14.3%	71.4%	14.3%
Total	153	5.9%	30.1%	52.3%	11.8%
Hall County					
White	91	11.0%	49.5%	34.1%	5.5%
Minority	6	33.3%	66.7%	0.0%	0.0%
Total	97	12.4%	50.5%	32.0%	5.2%
Douglas County					
White	30	10.0%	53.3%	30.0%	6.7%
Minority	7	0.0%	57.1%	28.6%	14.3%
Total	37	8.1%	54.1%	29.7%	8.1%

Table 1-36 illustrates the attitudes of jurors from these three counties when provided with this statement: "It is important that juries reflect the racial and ethnic makeup of the community." Among respondents from each pool, a substantial majority indicated that they agree or strongly agree. Douglas County, the most racially and ethnically diverse of the three reported the highest percentage of agreement (90.6%). Over three-quarters of jurors responding to the survey in Lancaster (82.6%) and Hall (78.0%) also agreed that juries should reflect the diversity of the community.

Table 1-36: It is Important that Juries Reflect the Racial and Ethnic Diversity of the Community

Lancaster County	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	149	14.8%	67.8%	13.4%	4.0%
Minority	6	50.0%	50.0%	0.0%	0.0%
Total	155	16.1%	67.1%	12.9%	3.9%
Hall County					
White	113	12.4%	64.6%	18.6%	4.4%
Minority	5	40.0%	60.0%	0.0%	0.0%
Total	116	13.6%	64.4%	17.8%	4.2%
Douglas County					
White	87	13.8%	75.9%	3.4%	6.9%
Minority	9	22.2%	77.8%	0.0%	0.0%
Total	96	14.6%	76.0%	3.1%	6.3%

Several jurors commented about the lack of diversity in the venire and among impaneled jurors. Specifically, one Douglas County juror submitted written comments with her survey suggesting her discomfort with the fact that a black defendant for her trial did not receive a jury reflective of the racial composition of Douglas County.

> I was under consideration for a murder trial of a black male defendant. Of the some 100 people (prospective jurors) there were only two black jurors. I did not think this representation for the defendant would be perceived as fair, nor did his family that sat behind me (judging by their comments).

Findings

Public Perception

1. Minority group members tend to believe relatively uniformly that members of other minority groups receive unfair treatment. This is especially the case among black respondents, who are more negative about court fairness toward any minority group. Generally speaking, Native American and Hispanic perceptions closely parallel one another, with Hispanic respondents being somewhat more positive.

2. Nebraska respondents tend to have different views than the national sample. Specifically, white respondents in the Nebraska sample are less likely to believe that minorities receive unfair treatment than are whites in the national pool. Conversely, a substantially higher percentage of blacks in the Nebraska pool believe they and members of other racial and ethnic groups are treated unfairly.

Interpreter Services

1. Data indicate that Nebraska's demographics are quickly changing, causing an increase in the demand for interpreter services in the courts.

2. There is a shortage of qualified interpreters in the state. Since Nebraska joined the Consortium for State Court Interpreter Certification in 1999, six individuals have passed the certification test. There is also a need to increase and improve interpreter training courses in preparation for the certification tests.

3. Nebraska courts do not always make an attempt to first appoint a court-certified interpreter as is required by rule of the Nebraska Supreme Court.

4. Some confusion exists as to when interpreter services should be paid for by the state or county.

5. Nebraska does not pay for interpreter services for diversion. Some individuals may not have the means to pay for such services.

6. Translation of documents are not consistent across the state.

Nebraska Juries

1. The majority of Nebraskans believe that it is important that juries reflect the racial and ethnic makeup of the community. However, many respondents, especially minority respondents, believe that juries in general are not representative of their communities.

2. The majority of Nebraska court personnel believe that jury pools represent the community at large. Minority court personnel were less likely to agree that jury pools represent the community at large and much less likely to believe that racial and ethnic minorities are adequately represented on jury panels.

3. Minority lawyers and lawyers from diverse counties (Lancaster County, Douglas County, Sarpy County, etc.) of the state are substantially more likely to believe Nebraska's jury pools underrepresent racial and ethnic minorities.

4. Although minorities in Nebraska are slightly more likely than whites to have been in a Nebraska court of law as a defendant or witness, whites are substantially more likely to have been called for and served on Nebraska juries.

5. Nebraska's current method for compiling jury lists may have an adverse effect on minority participation.

6. Nebraska state statutes do not require periodic refreshing of jury lists.

7. Although Nebraska state statutes ensure that employees' wages are protected, there are currently no efforts to reimburse low-income jurors for child care or elderly care expenses incurred because of jury service.

8. Minorities in Lancaster County were underrepresented in the venires and on impaneled juries for both civil and criminal trials in the summer of 2002.

9. A majority of jurors from Douglas, Lancaster, and Hall Counties feel that juries should be reflective of the community.

Recommendations

Public Perception

1. Court employees, including administrators, judges, lawyers, and court personnel, should be made aware of the perceptions outlined in this study and the effects these perceptions have on the courts.

2. Significant efforts should be taken by the Nebraska State Bar Association, Nebraska Supreme Court, and Nebraska policymakers to promote legal services for Nebraska's indigent. Specifically, the Nebraska State Bar Association should continue to actively encourage private lawyers to provide pro bono or reduced-fee services to those in need.

3. Sources should be found to fund a public service announcement (PSA) campaign designed at increasing awareness of and confidence in the courts, especially among minority groups.

Interpreter Services

1. The Nebraska Administrative Office of the Courts should collaborate with schools of higher education to design a curriculum appropriate for pre- and post-certification education for interpreters.

2. The Administrative Office of the Courts should create a "screening phase" for certification applicants, so as to increase the likelihood of passage before extensive funds are spent on testing.

3. The Administrative Office of the Courts should seek additional funds for training through federal and nonprofit granting institutions.

4. The Administrative Office of the Courts should actively encourage those desiring to take certification tests in languages not currently offered in Nebraska to take those tests in other National Consortium for Racial and Ethnic Fairness in the Courts states that offer those particular tests so as to reduce costs in Nebraska.

5. The Administrative Office of the Courts should require records to be kept and summarized as to the number of requests made for interpreter services in each Nebraska county along with a breakdown of the number of times each language is requested.

6. Judges should be required to ask noncertified interpreters if they have read and agree to adhere to the Code of Professional Responsibility for Interpreters.

7. A policy should be adopted requiring that all judicial forms, documents, and videos used in court proceedings be drafted in English and translated into such additional languages as the Administrative Office of the Courts approves. All such translations should be made by qualified translators and approved by the Administrative Office of the Courts.

8. Interpreters should be encouraged to acquire an understanding of cultural variations that accompany language differences, so as to better assist non-English-speaking clients.

9. The Nebraska Supreme Court and Administrative Office of the Courts should consider hiring interpreters on a full time basis, where appropriate, in order to attract more and better interpreters.

10. The Administrative Office of the Courts should actively seek to partner with other governmental agencies to hire full time or to "share" language interpreters, where a need justifies such a partnership.

11. The Administrative Office of the Courts should continue to actively recruit bilingual staff and compensate them accordingly.

12. The Nebraska Supreme Court should require that county and district courts provide court-paid interpreter services to indigents outside of court in order to communicate with their court-appointed lawyers.

13. The Administrative Office of the Courts should create a review system to rate frequently used uncertified interpreters and periodically make unannounced reviews of uncertified interpreters in the courtroom setting.

14. The Administrative Office of the Courts should provide diversity and cultural training for all judges and court employees, both at the time of their hiring and at interval periods.

15. A simple explanation of both civil and criminal court processes should be prepared in Spanish and other appropriate languages. This could be in written or video form.

16. Local Bar associations and courts should engage in outreach programs with leaders of local immigrant and culturally diverse communities to help educate their members as to the role and processes of the Nebraska court system.

17. The Administrative Office of the Courts should develop a Nebraska court-approved voir dire, such as the one developed by the NCSC, for use by judges to determine the qualifications of an uncertified interpreter.

Nebraska Juries

1. Juries should be more reflective of the diversity of the community, and source lists for juries should be expanded to ensure such diversity.

2. Reimbursements should be made to low-income jurors for child care or elder care expenses incurred because of jury service.

3. The Nebraska Secretary of State should require that all persons registering to vote identify their race and ethnicity so that proper records can be kept of jury pool composition.

4. Jury commissioners should be required to collect and preserve racial and ethnic information on all persons selected for jury duty. This data should be reported yearly to the Administrative Office of the Courts.

5. Jury commissioners should be required to collect and preserve racial and ethnic information on all persons granted excuses and deferrals, reporting for jury duty, selected for voir dire panels, and

seated on juries at both the county and district level. This data should be reported yearly to the Administrative Office of the Courts.

6. County and district court clerks should be required to collect and preserve racial and ethnic information on all impaneled jurors. This data should be reported yearly to the Administrative Office of the Courts.

7. Nebraska statute should require that jury pool lists be refreshed annually on a set date determined by the Administrative Office of the Courts.

Chapter 2: Criminal and Juvenile Justice

Racial and ethnic minorities are overrepresented as defendants and among those incarcerated throughout the United States justice systems. However, this overrepresentation varies across states and affects members of different minority groups in markedly dissimilar ways (Bureau of Justice Statistics *Arrest Report 2001*). The Minority and Justice Task Force sought to assess the degree to which racial and ethnic minorities are overrepresented in Nebraska's justice system and to measure the effect any overrepresentation has on members of each of Nebraska's largest minority groups.

Research Methods

The Task Force obtained both objective and perception data to assess potential bias in the criminal justice system. These data were collected from an assortment of federal, state, and local agencies, county and district courts, as well as individual lawyers, court employees, and concerned citizens. The statistical, or objective, data cited in the first parts of this section largely come from the United States Department of Justice Bureau of Justice Statistics, enabling the Task Force to compare national and regional figures.

Focus groups and public testimony provided the bulk of the "experiential" data, much of which is discussed later in this section. Surveys of Bar members and court personnel serve as the basis for the "perception" data, which speak to the attitudes of respondents. Finally, the Administrative Office of the Courts and clerks of court provided arrest, bond, and sentencing statistics for Douglas, Lancaster, and Sarpy Counties. The Task Force also examined patterns in juvenile prosecution, using data provided by the Administrative Office of the Courts and the Nebraska Commission on Law Enforcement and Criminal Justice (Nebraska Crime Commission).

A more complete discussion of the research methodology is found in Chapter 5, page 139.

Data Limitations

Racial and ethnic bias is difficult to research using multiple data sources. Some agencies collect race and ethnicity data separately, others collect only race data, and still others collect a combination. Federal and state agencies have been reluctant to combine "race" and "ethnicity" into one category of self-identification because many people categorize themselves as both a member of a race and a person with a distinct ethnic heritage. Another difficulty is that there are no established procedure for identifying the race of each police "contact." Law enforcement officers are provided with the definitions of each race, but it is unknown whether they collect the information from the person's identification, inquire, or guess.

More than 5% (5.5%) of Nebraska's population identifies itself as Hispanic. Thus, they are classified as both a race (white, black, Native American, or Asian) and ethnicity (Hispanic). Since the data provided by the Bureau of Justice Statistics and the data collected by the Nebraska Administrative Office of the Courts and the Douglas County District Court do not include reliable ethnicity measures, but these collected from the Nebraska Department of Correctional Services do include reliable ethnicity data, it is difficult to use the two datasets in tandem to illustrate the likelihood that an arrest will end in incarceration as a function of race and ethnicity. An examination of both datasets, however, provides the most illustrative overview of the effect of race and ethnicity on the administration of justice in Nebraska's justice system.

As will be discussed in detail below, the Task Force was limited in its inquiry by lack of access to presentence reports. These reports contain relevant background information relied upon on by judges, prosecutors, and defense counsel at sentencing, such as prior criminal background. Additionally, the Task Force discovered that information, such as a defendant's race and ethnicity, was not consistently documented throughout the system.

Arrests and Incarceration

The Task Force began the analysis of the Nebraska courts by examining the "input" into the criminal justice system (arrests) and the "output" of the criminal justice system (incarceration). In the section that follows, the Task Force examines arrest data derived from the Department of Justice Bureau of Justice Statistics and incarceration data obtained from the Nebraska Department of Correctional Services and comparable departments in states throughout the region.

Arrests

In 2000, there were 95,353 total arrests in Nebraska. Table 2-1 shows that whites comprised 78.1% of the arrests in 2000, whereas blacks constituted 19.0%, Native Americans 2.6% and Asian or Pacific Islanders less than one-half of a percentage point. Table 2-1 does not include a separate category for Hispanics because the Bureau of Justice Statistics does not maintain ethnicity statistics, nor do Nebraska's primary law enforcement agencies. So, while Hispanics are included among those arrested, they are identified by their race (white, black, Native American, or Asian), instead of by a separate ethnicity category.

Table 2-1: Nebraska Arrests by Race for the Year 2000*

	Nebraska Population	Number Arrested	Percentage of Those Arrested	Percentage of Those Arrested in Relationship to the General Population**
White	1,533,261	76,845	78.1%	5.0%
Black	68,541	18,706	19.0%	27.3%
Native American	14,896	2,533	2.6%	17.0%
Asian or Pacific Islander	22,767	353	0.4%	1.6%

Source: Bureau of Justice Statistics, *Arrest Report 2000*.
Note: The data source utilized a strict definition for "race" that did not include Hispanic or Latino as a separate category.
*These data may include juveniles.
**This does not mean that 27.3% of blacks were arrested in 1999. This figure only shows the relationship between the number arrested and number in the population. The arrest number likely includes persons who were arrested more than once in a calendar year.

In addition, Table 2-1 compares the number of those arrested with their percentage in the general population. These findings suggest that whereas nearly 80% of those arrested are white (78.1%), this is only representative of 5.0% of the white population. Conversely, blacks account for 19.0% of the arrested population, but this is representative of 27.3% of the state's black population. Similarly, Native Americans constitute 2.6% of Nebraskans arrested in the year 2000, but that figure is representative of 17.0% of the Native Americans living in the state. Only Asian or Pacific Islanders, 0.4% of those arrested in Nebraska in the year 2000, were arrested at a percentage lower than whites (1.6%).

Another way to consider the relationship between race and arrests is to compare the arrested population to the actual population. According to the 2000 U.S. Census, whites make up 89.6% of Nebraska's population but only 78.1% of the arrested population. Conversely, blacks are 4.0% of the state's population but 19.0% of the arrested population. Native Americans, with 0.9% of the state's population, are also disproportionately arrested compared to their percentage in the population at 2.6%.

Asian or Pacific Islanders, like whites, are underrepresented in terms of arrests at 0.4%, when they make up 1.3% of the Nebraska population.

By comparing the arrest likelihood numbers across races, it becomes apparent that blacks and Native Americans are much more likely to be arrested than are whites. Specifically, Nebraska's blacks are 5.5 times more likely to be arrested than are white Nebraskans. Native Americans living in the state are 3.4 times more likely to be arrested than are white Nebraskans. Persons of Asian descent are one-third as likely to be arrested as are whites living in the state. With the exception of Asian or Pacific Islanders, these rates are substantially higher than comparable national rates (see Table 2-2).

The Bureau of Justice Statistics, an office of the United States Department of Justice charged with keeping criminal justice statistics for all state and federal law enforcement agencies, finds that 67.0% of people arrested nationally in 2000 were white, 30.8% were black, 1.1% were Native American, and 1.0% were Asian or Pacific Islander. However, the United States as a whole is more racially diverse than the state of Nebraska. Table 2-2 lists the raw number of arrests and the population figures for the United States.

Table 2-2: National Arrests by Race for the Year 2000*

	National Population**	Number Arrested	Percentage of Those Arrested	Percentage of those Arrested in Relation to the General Population***
White	206,730,143	7,722,704	67.0%	3.7%
Black	34,395,540	3,555,495	30.8%	10.3%
Native American	2,409,606	131,865	1.1%	5.5%
Asian or Pacific Islander	10,152,772	119,883	1.0%	1.2%

Source: Bureau of Justice Statistics, *Arrest Report 2000*.
Note: The data source utilized a strict definition for "race" that did not include Hispanic or Latino as a separate category.
*These data may include juveniles.
**Wisconsin did not provide arrest data for the year 2000. Therefore, the race-specific populations of Wisconsin were removed from the national population to provide an accurate comparison.
***This does not mean that 10.3% of blacks were arrested in 2000. This figure only shows the relationship between the number arrested and number in the population. The arrest number likely includes persons who were arrested more than once in a calendar year.

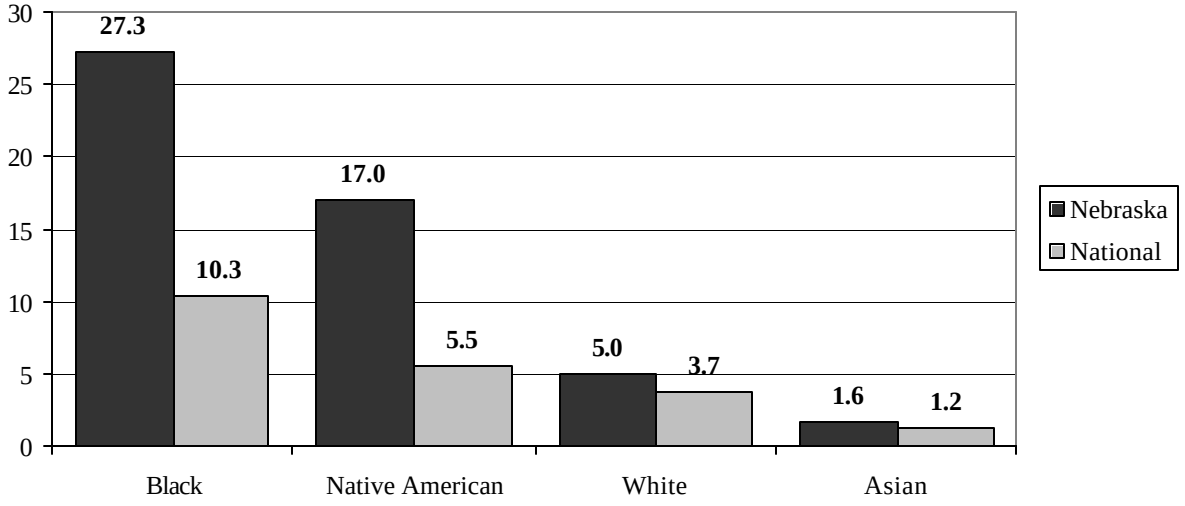
Just over 67% of those arrested are white, but given that 75.1% of the United States population is white, the percentage of whites arrested in relation to the general population is 3.7%. Conversely, whereas blacks comprise 30.8% of the arrested population, the percentage of blacks arrested in relation to the general population is 10.3%. Native Americans constitute 1.0% of those arrested in 2000, but the percentage of those arrested in relation to the general population is 5.5%. Asian or Pacific Islanders, like whites, were slightly underrepresented among arrests nationally. Asian or Pacific Islanders constitute 1.0% of the nation's arrested population, and the percentage of Asian or Pacific Islanders arrested in relation to the general population is 1.2%. This means that nationally, blacks are 2.7 times more likely to be arrested than whites, Native Americans are almost 1.5 times more likely to be arrested than whites, and Asian or Pacific Islanders are a third as likely to be arrested as whites.

As with previous discussion of the figures listed on Table 2-1, another way to consider the disparities illustrated on Table 2-2 is to compare the percentage of arrested populations to their percentage in the general population. If racial minorities are no more likely to be arrested than whites, then the percentage arrested should closely match the percentage in the overall population. That is not the case. According to the 2000 U.S. Census, whites make up 75.1% of the United States population, but 67.0% of

the arrested population. Conversely, blacks are 12.3% of the United States population, but 30.8% of the arrested population. Native Americans are 0.9% of the United States population, but are arrested at the rate of 1.1%. Asian or Pacific Islanders, like whites, are underrepresented in arrests at 1.0%, when they make up 3.6% of the United States population.

These data suggest that racial minorities in Nebraska are arrested at a substantially higher rate than racial minorities nationally. In fact, Nebraska's blacks are 2.7 times more likely to be arrested than blacks nationally and Native Americans are more than three times more likely to be arrested than Native Americans nationally. As with blacks and Native Americans, Nebraska's Asian or Pacific Islanders are more likely to be arrested than they are nationally. The Bureau of Justice Statistics, which differentiates between race and ethnicity data, does not maintain arrest records for ethnicity; thus no figures are available for those of Hispanic descent. Figure 2-1 is a graphic illustration of the differences between Nebraska arrests and national percentages.

Figure 2-1: Percentage of Those Arrested in Relation to National Arrest Numbers*



Sources: Bureau of Justice Statistics, *Arrests Report 2000* and the 2000 U.S. Census.
*This does not mean that 10.3% of all blacks in the United States were arrested in 2000. This figure only shows the relationship between the number arrested and number in the population. The arrest number likely includes persons who were arrested more than once in a calendar year.

Delineation by specific charges further illustrates the substantial difference between the likelihood of a white Nebraskan being arrested and a minority Nebraskan being arrested. Tables 2-3 through 2-8 show these arrests by specific charges across several states in Nebraska's region. These numbers illustrate the disparity in arrests for specific charges per 10,000 citizens in Nebraska and regionally. For instance, as illustrated in Table 2-3, Nebraska's blacks are substantially more likely to be arrested across the spectrum of crimes. Blacks are 11 times more likely to be arrested for murder or manslaughter, 8 times more likely to be arrested for motor vehicle theft, and 11 times more likely to be arrested for drug abuse violations than are whites. Like blacks, Native Americans are also disproportionately more likely to be arrested for virtually every crime listed than their white counterparts. For example, Nebraska's Native Americans are 8.5 times more likely to be arrested for murder or manslaughter, 13 times more likely to be arrested for motor vehicle theft, and twice as likely as whites to be arrested for drug abuse violations.

Tables 2-4 through 2-8 break down arrest ratios by race across states, in order to put Nebraska's arrest total in context by comparing it to those of other states in Nebraska's region. Nebraska's region is defined as all those states that have a common border with Nebraska: Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming. Overall, Nebraska has the second highest arrest percentages in the region. Nebraska also ranks among the highest arrest totals for all but one of the racial groups examined. For instance, Nebraska has the third highest arrest numbers for whites, the highest numbers for blacks, and the second highest for Native Americans. Among Asian or Pacific Islander arrests, Nebraska ranks behind four states in the region.

Table 2-3: Arrests in Nebraska per 10,000 Citizens for the Year 2000
– All Adults Separated by Race–

Offense Classification	Number Arrested	White	Black	Native American	Asian
Murder and Manslaughter	45	0.26	2.93	2.22	0.00
Forcible Rape	130	0.76	9.23	2.22	0.00
Robbery	230	0.90	26.35	10.00	0.00
Aggravated Assault	819	4.70	49.77	56.67	4.19
Burglary- Breaking or Entering	715	5.03	24.55	27.78	1.20
Larceny	5,636	35.69	294.59	214.44	18.56
Motor Vehicle Theft	251	1.58	11.26	21.11	0.00
Other Assaults	7,980	51.45	388.06	334.44	23.35
Arson	26	0.18	1.13	0.00	0.00
Forgery and Counterfeiting	780	5.09	41.89	6.67	1.80
Fraud	1,913	14.31	50.68	34.44	6.59
Embezzlement	138	0.84	8.78	1.11	0.60
Buying, Receiving, Possessing Stolen Property	841	5.28	49.10	14.44	1.80
Vandalism	1,847	11.98	90.77	65.56	4.19
Weapons: Carrying, Possessing, etc.	853	5.23	54.28	11.11	0.00
Prostitution and Commercialized Vice	460	2.43	38.51	7.78	1.80
Other Sex Offenses	544	4.12	13.06	7.78	2.99
Drug Abuse Violations	8,625	52.09	566.22	114.44	10.78
Gambling	48	0.27	3.83	0.00	0.00
Offenses Against Family and Children	1,439	10.07	50.23	56.67	4.19
Driving Under the Influence	11,147	87.58	178.83	277.78	18.56
Liquor Laws	8,728	65.42	217.57	242.22	12.57
Drunkenness	0	0.00	0.00	0.00	0.00
Disorderly Conduct	3,565	23.77	147.97	191.11	1.20
Vagrancy	3	0.03	0.00	0.00	0.00
All Other Offenses (Except Traffic)	20,411	125.12	1218.47	607.78	38.92
Suspicion	1	0.01	0.00	0.00	0.00
Curfew and Loitering Law Violations	0	0.00	0.00	0.00	0.00
Total	77,175	514.20	3538.06	2307.78	153.29

Sources: Bureau of Justice Statistics *Arrest Report 2000* and the 2000 U.S. Census.
Note: The United States Department of Justice, which keeps statistics for the Bureau of Justice Statistics, does not keep ethnicity data. Hence no data are available for "Hispanics."
Calculations: The ratios shown in the columns of this table were calculated by taking the raw number of arrests in each category and dividing them by .00001 of the population for each race. For example, there were 1,149,984 white adults in Nebraska. That number was divided by 10,000, which roughly equals 115.00. In the year 2000, there were 30 white adults arrested for murder. The number 30 was then divided by 115.00, leaving 0.26. This means that for the year 2000, there were 0.26 murder arrests per 10,000 white Nebraskans.

Table 2-4: Arrests Among Regional States per 10,000 Citizens for the Year 2000
– All Adults Without Regard to Race –

Offense Classification	Nebraska	Colorado	Iowa	Kansas	Missouri	South Dakota	Wyoming
Murder and Manslaughter	0.36	0.34	0.18	0.08	0.48	0.16	0.30
Forcible Rape	1.03	1.14	0.41	0.41	0.77	0.98	1.10
Robbery	1.82	1.51	1.08	0.44	3.36	0.51	0.79
Aggravated Assault	6.49	20.60	14.22	5.31	11.18	6.88	12.66
Burglary- Breaking or Entering	5.67	4.91	5.82	2.34	6.38	5.22	6.44
Larceny	44.69	44.61	28.64	14.76	37.91	28.50	36.86
Motor Vehicle Theft	1.99	3.89	1.65	1.17	5.86	1.68	2.08
Other Assaults	63.28	55.35	35.21	35.51	54.62	41.04	3.21
Arson	0.21	0.36	0.21	0.19	0.47	0.07	0.27
Forgery and Counterfeiting	6.19	3.85	4.12	1.71	3.45	2.10	3.18
Fraud	15.17	6.03	7.53	11.46	5.35	14.25	5.76
Embezzlement	1.09	0.28	0.70	0.30	0.09	0.45	0.05
Stolen Property Offenses	6.67	1.41	0.53	1.44	2.43	1.50	1.81
Vandalism	14.65	14.16	6.38	5.19	12.18	6.45	8.88
Weapons: Carrying, Possessing, etc.	6.76	5.87	2.02	1.36	6.32	0.98	2.47
Prostitution/Commercialized Vice	3.65	3.87	1.19	0.10	4.10	0.24	0.11
Other Sex Offenses	4.31	3.25	0.93	0.76	3.94	3.42	3.40
Drug Abuse Violations	68.40	42.16	37.00	26.45	47.12	38.43	49.99
Gambling	0.38	0.03	0.14	0.00	0.35	0.02	0.03
Offenses Against Family/Children	11.41	8.01	2.55	1.42	5.74	4.44	5.29
Driving Under the Influence	88.40	75.59	56.51	59.37	39.59	77.35	120.58
Liquor Laws	69.21	46.55	35.76	19.80	10.40	152.25	107.59
Drunkenness	0.00	1.29	43.91	1.58	4.19	8.49	37.98
Disorderly Conduct	28.27	39.25	19.39	9.40	19.76	26.40	28.58
Vagrancy	0.02	2.14	0.25	0.00	1.65	1.18	0.16
All Other Offenses (Except Traffic)	161.86	204.65	77.89	71.53	179.49	84.43	229.71
Suspicion	0.01	0.00	0.00	0.00	2.44	0.02	0.19
Curfew/Loitering Law Violations	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	612.01	581.72	384.21	272.08	469.62	507.42	724.28

Sources: Bureau of Justice Statistics *Arrest Report 2000* and the 2000 U.S. Census.
Note: The United States Department of Justice, which keeps statistics for the Bureau of Justice Statistics, does not keep ethnicity data. Hence no data are available for "Hispanics."
Calculations: See Table 2-3 for calculation method.

Table 2-5: Arrests Among Regional States per 10,000 Citizens for the Year 2000
– White Adults –

Offense Classification	Nebraska	Colorado	Iowa	Kansas	Missouri	South Dakota	Wyoming
Murder and Manslaughter	0.26	0.27	0.12	0.07	0.10	0.10	0.26
Forcible Rape	0.76	1.07	0.34	0.39	0.36	0.71	1.09
Robbery	0.90	1.05	0.56	0.25	1.04	0.34	0.76
Aggravated Assault	4.70	10.64	11.66	5.12	4.95	4.26	12.50
Burglary- Breaking or Entering	5.03	4.97	5.18	2.37	3.95	3.87	6.56
Larceny	35.69	43.48	23.99	14.08	21.86	20.71	35.86
Motor Vehicle Theft	1.58	3.35	1.34	0.99	2.31	1.05	2.15
Other Assaults	51.45	52.20	29.84	35.51	34.53	31.40	57.08
Arson	0.18	0.40	0.20	0.21	0.30	0.06	0.29
Forgery and Counterfeiting	5.09	4.00	3.54	1.48	2.11	1.86	3.18
Fraud	14.31	6.15	7.48	11.94	4.61	13.98	5.80
Embezzlement	0.84	0.31	0.64	0.29	0.05	0.48	0.06
Stolen Property Offenses	5.28	1.34	0.47	1.21	1.22	0.97	1.88
Vandalism	11.98	14.04	5.82	5.67	5.41	5.51	8.53
Weapons: Carrying, Possessing, etc.	5.23	5.22	1.70	1.21	3.11	0.93	2.41
Prostitution/Commercialized Vice	2.43	3.54	0.95	0.12	2.28	0.22	0.12
Other Sex Offenses	4.12	3.35	0.90	0.82	2.29	3.01	3.47
Drug Abuse Violations	52.09	38.83	32.58	25.89	25.34	35.66	50.81
Gambling	0.27	0.01	0.13	0.00	0.09	0.00	0.03
Offenses Against Family/Children	10.07	8.23	2.24	1.44	4.50	3.49	5.35
Driving Under the Influence	87.58	83.74	55.82	63.26	39.23	71.66	121.04
Liquor Laws	65.42	46.59	35.94	21.18	9.69	124.28	108.65
Drunkenness	0.00	1.47	39.82	1.64	2.56	1.67	30.45
Disorderly Conduct	23.77	38.25	16.73	9.48	11.56	17.77	28.57
Vagrancy	0.03	1.49	0.24	0.00	0.84	0.18	0.15
All Other Offenses (Except Traffic)	125.12	197.91	67.66	65.04	116.24	61.88	226.86
Suspicion	0.01	0.00	0.00	0.00	2.47	0.02	0.21
Curfew/Loitering Law Violations	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	514.20	571.91	345.90	269.19	303.01	406.07	714.12

Sources: Bureau of Justice Statistics *Arrest Report 2000* and the 2000 U.S. Census.
Note: The United States Department of Justice, which keeps statistics for the Bureau of Justice Statistics, does not keep ethnicity data. Hence no data are available for "Hispanics."
Calculations: See Table 2-3 for calculation method.

Table 2-6: Arrests Among Regional States per 10,000 Citizens for the Year 2000
– Black Adults –

Offense Classification	Nebraska	Colorado	Iowa	Kansas	Missouri	South Dakota	Wyoming
Murder and Manslaughter	2.93	2.62	3.27	0.19	3.82	3.23	0.00
Forcible Rape	9.23	5.84	3.52	1.06	4.41	12.90	7.69
Robbery	26.35	16.74	29.15	3.85	23.97	12.90	11.54
Aggravated Assault	49.77	52.57	152.76	13.10	67.36	96.77	73.08
Burglary- Breaking or Entering	24.55	16.91	42.71	4.43	28.64	41.94	19.23
Larceny	294.59	187.62	271.86	41.71	185.06	238.71	188.46
Motor Vehicle Theft	11.26	27.46	19.10	4.43	37.59	12.90	0.00
Other Assaults	388.06	272.19	334.17	74.66	240.61	461.29	319.23
Arson	1.13	0.61	1.01	0.10	2.07	3.23	0.00
Forgery and Counterfeiting	41.89	11.77	39.45	7.51	15.84	9.68	23.08
Fraud	50.68	19.44	19.60	16.18	13.39	45.16	23.08
Embezzlement	8.78	0.44	4.77	0.77	0.38	0.00	0.00
Stolen Property Offenses	49.10	6.54	4.27	7.03	13.41	16.13	3.85
Vandalism	90.77	55.01	40.20	10.79	73.32	32.26	65.38
Weapons: Carrying, Possessing, etc.	54.28	37.93	20.10	5.30	35.35	3.23	15.38
Prostitution/Commercialized Vice	38.51	21.36	15.33	0.00	20.13	0.00	0.00
Other Sex Offenses	13.06	9.07	4.02	0.77	19.04	38.71	19.23
Drug Abuse Violations	566.22	243.94	305.28	65.41	246.76	261.29	192.31
Gambling	3.83	0.35	0.50	0.00	2.62	0.00	0.00
Offenses Against Family/Children	50.23	24.24	21.86	2.50	18.03	51.61	26.92
Driving Under the Influence	178.83	88.67	141.96	59.34	54.04	358.06	188.46
Liquor Laws	217.57	131.82	66.83	18.59	19.51	464.52	157.69
Drunkenness	0.00	1.05	165.33	1.73	19.42	9.68	80.77
Disorderly Conduct	147.97	166.52	167.34	18.59	95.40	232.26	161.54
Vagrancy	0.00	18.92	1.01	0.00	9.00	12.90	3.85
All Other Offenses (Except Traffic)	1218.47	882.48	684.17	258.86	770.07	464.52	1073.08
Suspicion	0.00	0.00	0.00	0.00	3.02	0.00	0.00
Curfew/Loitering Law Violations	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	3538.06	2302.09	2559.55	616.96	2022.25	2883.87	2653.85

Sources: Bureau of Justice Statistics *Arrest Report 2000* and the 2000 U.S. Census.
Note: The United States Department of Justice, which keeps statistics for the Bureau of Justice Statistics, does not keep ethnicity data. Hence no data are available for "Hispanics."
Calculations: See Table 2-3 for calculation method.

Table 2-7: Arrests Among Regional States per 10,000 Citizens for the Year 2000
– Native American Adults –

Offense Classification	Nebraska	Colorado	Iowa	Kansas	Missouri	South Dakota	Wyoming
Murder and Manslaughter	2.22	0.96	0.00	0.00	0.00	0.87	2.82
Forcible Rape	2.22	1.29	6.90	0.58	1.09	4.06	1.41
Robbery	10.00	1.29	3.45	0.58	0.00	2.03	0.00
Aggravated Assault	56.67	15.76	84.48	5.85	2.19	38.84	25.35
Burglary- Breaking or Entering	27.78	4.82	29.31	0.58	4.37	22.90	8.45
Larceny	214.44	41.80	217.24	1.75	8.20	130.43	104.23
Motor Vehicle Theft	21.11	3.86	3.45	2.34	3.83	10.43	4.23
Other Assaults	334.44	79.10	193.10	25.15	30.05	152.17	128.17
Arson	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Forgery and Counterfeiting	6.67	1.29	6.90	1.17	0.55	5.22	2.82
Fraud	34.44	4.50	15.52	9.36	0.55	19.71	9.86
Embezzlement	1.11	0.00	0.00	0.00	0.00	0.29	0.00
Stolen Property Offenses	14.44	0.00	0.00	1.75	1.09	8.41	1.41
Vandalism	65.56	15.43	27.59	6.43	2.19	19.71	21.13
Weapons: Carrying, Possessing, etc.	11.11	4.18	8.62	0.58	1.09	1.74	5.63
Prostitution/Commercialized Vice	7.78	4.18	0.00	0.00	2.19	0.58	0.00
Other Sex Offenses	7.78	4.18	0.00	0.00	1.09	7.25	1.41
Drug Abuse Violations	114.44	27.65	118.97	14.62	4.37	68.12	46.48
Gambling	0.00	0.00	1.72	0.00	0.00	0.29	0.00
Offenses Against Family/Children	56.67	5.47	5.17	1.17	1.09	15.07	5.63
Driving Under the Influence	277.78	83.60	203.45	51.46	10.93	154.20	311.27
Liquor Laws	242.22	201.93	77.59	12.87	2.19	573.91	252.11
Drunkenness	0.00	0.32	1096.55	5.85	0.00	110.72	463.38
Disorderly Conduct	191.11	50.48	105.17	7.02	4.37	141.16	39.44
Vagrancy	0.00	19.61	1.72	0.00	1.09	15.07	0.00
All Other Offenses (Except Traffic)	607.78	370.42	275.86	48.54	40.98	400.00	522.54
Suspicion	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Curfew/Loitering Law Violations	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	2307.78	942.12	2482.76	197.66	123.50	1903.19	1857.75

Sources: Bureau of Justice Statistics *Arrest Report 2000* and the 2000 U.S. Census.
Note: The United States Department of Justice, which keeps statistics for the Bureau of Justice Statistics, does not keep ethnicity data. Hence no data are available for "Hispanics."
Calculations: See Table 2-3 for calculation method.

Table 2-8: Arrests Among Regional States per 10,000 Citizens for the Year 2000
– Asian or Pacific Islander Adults –

Offense Classification	Nebraska	Colorado	Iowa	Kansas	Missouri	South Dakota	Wyoming
Murder and Manslaughter	0.00	0.13	0.37	0.00	0.20	0.00	0.00
Forcible Rape	0.00	0.53	0.37	0.56	0.00	0.00	0.00
Robbery	0.00	0.27	0.37	0.28	1.22	0.00	0.00
Aggravated Assault	4.19	7.61	11.81	4.23	3.04	3.03	0.00
Burglary- Breaking or Entering	1.20	1.87	4.06	1.41	2.64	3.03	4.55
Larceny	18.56	26.44	28.41	10.42	12.98	18.18	13.64
Motor Vehicle Theft	0.00	1.07	1.85	0.28	1.22	0.00	0.00
Other Assaults	23.35	25.23	23.62	10.70	13.18	45.45	13.64
Arson	0.00	0.00	0.00	0.28	0.00	0.00	0.00
Forgery and Counterfeiting	1.80	0.93	1.85	0.56	1.42	3.03	0.00
Fraud	6.59	3.07	2.58	2.54	0.81	0.00	0.00
Embezzlement	0.60	0.13	0.00	0.00	0.61	0.00	0.00
Stolen Property Offenses	1.80	1.47	1.11	0.00	0.41	0.00	0.00
Vandalism	4.19	6.01	4.43	2.54	3.04	0.00	9.09
Weapons: Carrying, Possessing, etc.	0.00	2.00	1.48	0.85	1.83	0.00	0.00
Prostitution/Commercialized Vice	1.80	2.94	1.11	0.00	6.09	0.00	0.00
Other Sex Offenses	2.99	2.00	0.00	0.28	2.03	0.00	0.00
Drug Abuse Violations	10.78	10.15	16.61	8.73	7.30	24.24	63.64
Gambling	0.00	0.27	0.00	0.00	0.41	0.00	0.00
Offenses Against Family/Children	4.19	4.81	1.48	0.56	0.81	3.03	0.00
Driving Under the Influence	18.56	26.57	31.73	14.65	12.98	45.45	72.73
Liquor Laws	12.57	15.75	17.34	6.48	3.04	51.52	59.09
Drunkenness	0.00	0.00	16.61	0.00	0.00	0.00	4.55
Disorderly Conduct	1.20	16.02	14.02	1.97	3.65	9.09	9.09
Vagrancy	0.00	0.53	0.00	0.00	0.20	0.00	0.00
All Other Offenses (Except Traffic)	38.92	71.43	39.85	22.82	42.39	54.55	95.45
Suspicion	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Curfew/Loitering Law Violations	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	153.29	227.24	221.03	90.14	121.50	260.61	345.45

Sources: Bureau of Justice Statistics *Arrest Report 2000* and the 2000 U.S. Census.
Note: The United States Department of Justice, which keeps statistics for the Bureau of Justice Statistics, does not keep ethnicity data. Hence no data are available for "Hispanics."
Calculations: See Table 2-3 for calculation method.

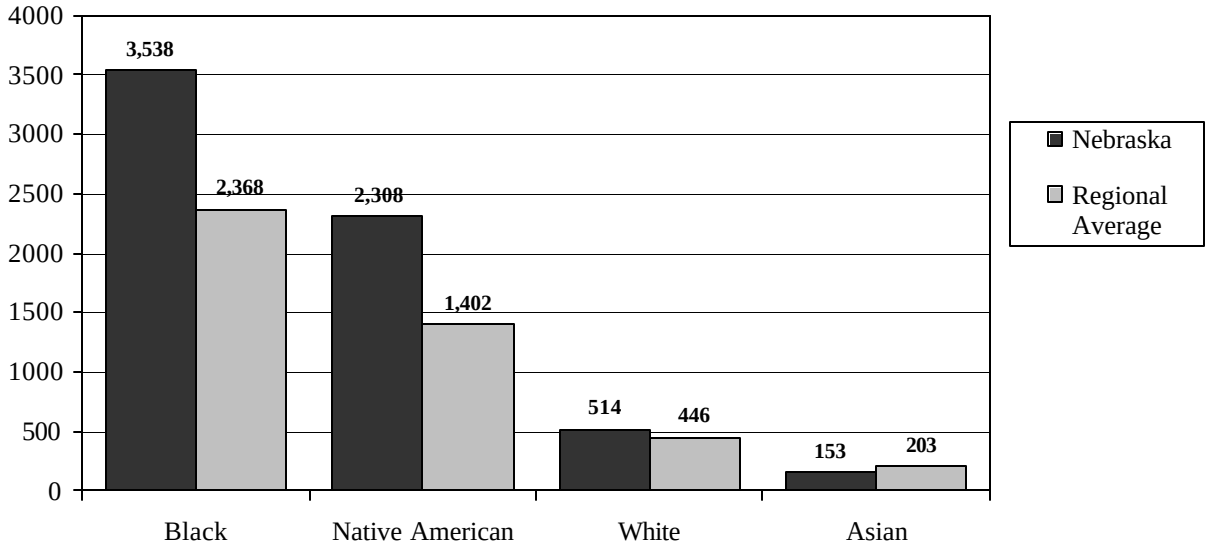
Table 2-6 shows that Nebraska's black arrest percentages are substantially higher than those recorded by Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming. Nebraska's blacks are 1.20 times more likely to be arrested than are blacks in South Dakota, 1.23 times more likely than blacks in Wyoming, 1.28 times more likely than are blacks in Iowa, 1.35 times more likely than are blacks in Colorado, 1.43 times more likely than are blacks in Missouri, and 1.83 times more likely to be arrested than are blacks in Kansas.[1] A similar trend is illustrated in Table 2-7, where Nebraska's arrest ratio for Native Americans is higher than rates for most of the states in the region. Only Iowa arrests a higher percentage of Native Americans than does Nebraska.

Nebraska's law enforcement agencies arrest a substantially higher percentage of blacks than do agencies in other states in the region. Only South Dakota is close to Nebraska's rate of arrests of black

[1] Kansas arrests for adults and juveniles are significantly lower than every regional state across every category, which may suggest that the numbers Kansas provided to the Bureau of Justice Statistics may be reported in a different way.

citizens. However, South Dakota still trails Nebraska by over 500 arrests per 10,000 black citizens for the year 2000. A high percentage of Native Americans was arrested in the region as well, most notably in Iowa, Nebraska, and South Dakota, where Native Americans are almost as likely to be arrested as blacks. Figure 2-2 shows Nebraska in relation to the regional average for each arrest group.

Figure 2-2: Nebraska Arrests Compared to the Regional Average in 2000 per 10,000 Citizens



Sources: Bureau of Justice Statistics; 2000 U.S. Census.

Although critical evaluation of the role of law enforcement is beyond the scope of this Task Force, it is important to note that police officers play more than a temporal role in the criminal process. The racial and ethnic composition of those prosecuted and those persons incarcerated is at least partially, if not largely, a function of those arrested. The information found on Tables 2-3 through 2-8 serves as a starting point for further examination of the role of courts and correctional facilities in creating or perpetuating the arrest disparity through to incarceration.

Incarceration

The racial composition of persons incarcerated in facilities administered by the Nebraska Department of Correctional Services during 2002 is shown by Table 2-9. Approximately 60% of the state's inmates are white, 24.2% are black, 10.9% are Hispanic, 4.5% are Native American and less than 1% are Asian or other. The inclusion of the ethnicity variable "Hispanic" makes the earlier tables and those on incarceration difficult to compare. The problem is that a person of Hispanic ethnicity could be any race – white, black, Native American, or Asian or Pacific Islander. The Nebraska Department of Correctional Services records "Hispanic" as if it were a racial code, unlike Nebraska's law enforcement agencies, which lack an established policy on maintaining ethnic data. This means the Department of Correctional Services identifies inmates as either white or Hispanic but not both. Conversely, law enforcement agencies in Nebraska and elsewhere tend not to keep any ethnicity data.

Table 2-9: Inmate Population by Race in Nebraska and Nationally

	Nebraska 2002		National 2001	
	Raw Number	Percent of Inmate Population	Raw Number	Percent of Inmate Population
White	2,375	59.5%	530,892	38.2%
Black	966	24.2%	636,729	46.7%
Hispanic	436	10.9%	176,349	12.6%
Native American	182	4.6%	17,227	1.2%
Asian or Pacific Islander	30	0.8%	8,723	0.6%
Other	1	0.1%	8,285	0.7%
Total	3,990	100%	1,378,205	100%

Sources: Nebraska Department of Correctional Services and *2001 Corrections Yearbook*.

One way to consider the number of Nebraskans incarcerated is to calculate the percentage of the state's population currently incarcerated in state facilities. With few exceptions, the facilities administered by the state Department of Correctional Services consist of only inmates resulting from in-state prosecution and conviction. That is not the case among states in Nebraska's region. Kansas, Colorado, and South Dakota have federal prisons. For comparison purposes, however, federal prisoners have not been included in Table 2-11 or Figure 2-3. This way, the demographics of Nebraska's correctional system can be directly compared to the other states in the region.

Table 2-10 lists the raw number of persons incarcerated in Nebraska by race and compares those numbers with the raw number of adult citizens of each race in the 2000 U.S. Census. Persons 16 years and older are included in the "adult" population column because, with few exceptions, persons below the age of 16 are not incarcerated in an adult facility. The data include individuals held in facilities administered by the Nebraska Department of Correctional Services as of October 2002. The percentage of white Nebraskans incarcerated is one-tenth that of black Nebraskans, one-ninth that of Native Americans living in Nebraska, and one-third that of Hispanic Nebraskans. Again, Asian or Pacific Islander is the only group that compares closely to the white population.

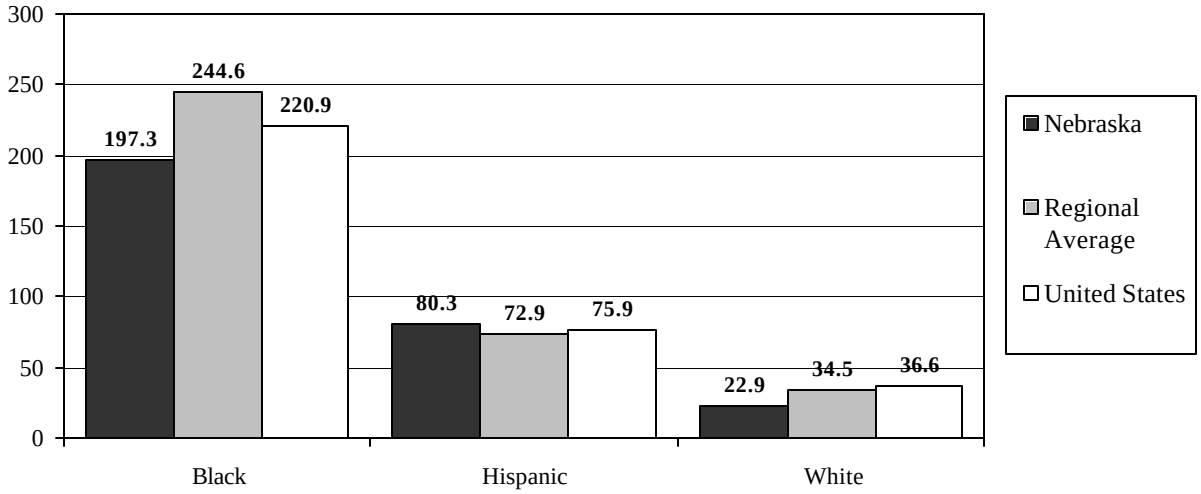
Table 2-10: Race of Nebraskans Incarcerated Divided by the Number in the Adult Population as of October 2002

	Adult Population*	Number Incarcerated	Percentage of Nebraskans Incarcerated
White	1,195,169	2,375	0.20%
Black	48,266	966	2.00%
Hispanic	62,200	436	0.70%
Native American	9,953	182	1.83%
Asian or Pacific Islander	17,757	30	0.17%
Total	1,341,836**	3992	0.30%

Sources: Nebraska Department of Correctional Services and the 2000 U.S. Census.
*Nebraska population includes only persons 16 years of age and older as reported by the 2000 U.S. Census.
**By including the "Hispanic" ethnicity with race, the 2000 U.S. Census numbers double-count a small percentage who identify themselves as being "white" or "black" and also "Hispanic."

Figure 2-3 compares 2001 Nebraska incarceration statistics, with the average incarceration numbers of surrounding states Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming. Nebraska's incarceration rates for blacks and Asians are below the regional and national averages, while the state's Hispanic incarceration rate is slightly higher than the regional and national averages.

Figure 2-3: Nebraska's Rate of Incarceration Compared to the Regional Average for 2001 per 10,000 Citizens



Sources: Bureau of Justice Statistics, Prison and Jail Inmates at Midyear 2001; 2000 U.S. Census.

A Perspective on Arrest and Incarceration Data

The numbers for Figure 2-3 are delineated in Table 2-11. Specifically, 22.9 white Nebraskans per 10,000 were confined in a Nebraska correctional facility in 2001. Among states in Nebraska's region, Nebraska had substantially fewer black inmates per 10,000 in 2001. Nebraska incarcerated 197.3 blacks per 10,000 black citizens in the population, whereas Iowa incarcerated 330 per 10,000 and Kansas, Colorado, Missouri, South Dakota, and Wyoming incarcerated between 202 and 275 per 10,000 in 2001. Among Hispanics, Nebraska's incarceration numbers compare closely to the region's incarceration rates.

Minorities in Nebraska, as a group, are 5.8 times more likely to be incarcerated than their white counterparts. Whereas approximately 23 white Nebraskans per 10,000 were incarcerated in 2000, minorities were incarcerated at a rate of almost 135 per 10,000. Other data provided by the Nebraska Department of Correctional Services and correctional facilities administered by localities puts this number even higher. Nebraska's minority incarceration rates are close to the national average, but they are comparatively low when placed in context with other states in the region.

The Bureau of Justice Statistics reports that "if recent incarceration rates remain unchanged, an estimated 1 out of every 20 persons (5.1%) will serve time in a prison during their lifetime" (1997, 10). The likelihood differs across races and ethnicities. For example the Bureau of Justice Statistics reports that among men, blacks (28.5%) are about twice as likely as Hispanics (16.0%) and six times more likely than whites (4.4%) to be sent to prison during their lifetimes. The Bureau of Justice Statistics also found that men (9.0%) have a much greater likelihood of incarceration than do women (1.1%). The Bureau of Justice Statistics does not compute estimates for specific states.

Table 2-11: 2001 Regional Incarceration by Race and Ethnicity

	State Population	Incarceration Rate (per 10,000 citizens)
Nebraska		
White	87.3%	22.9
Black	4.0%	197.3
Hispanic	5.5%	80.3
Native American	0.9%	NA
Asian or Pacific Islander	1.3%	NA
Colorado		
White	74.5%	39.4
Black	3.8%	275.1
Hispanic	17.1%	106.9
Native American	1.0%	NA
Asian or Pacific Islander	2.2%	NA
Iowa		
White	92.6%	28.4
Black	2.1%	330.2
Hispanic	2.8%	81.6
Native American	0.3%	NA
Asian or Pacific Islander	1.3%	NA
Kansas		
White	83.1%	34.5
Black	5.7%	246.9
Hispanic	7.0%	51.5
Native American	0.9%	NA
Asian or Pacific Islander	1.7%	NA
Missouri		
White	83.8%	43.0
Black	11.2%	216.0
Hispanic	2.1%	48.1
Native American	0.4%	NA
Asian or Pacific Islander	1.1%	NA
South Dakota		
White	88.0%	38.5
Black	0.6%	202.2
Hispanic	1.4%	70.0
Native American	8.3%	NA
Asian or Pacific Islander	0.6%	NA
Wyoming		
White	88.9%	44.4
Black	0.8%	247.7
Hispanic	6.4%	104.9
Native American	2.3%	NA
Asian or Pacific Islander	0.6%	NA
United States		
White	69.1%	36.6
Black	12.3%	220.9
Hispanic	12.5%	75.9
Native American	0.1%	NA
Asian or Pacific Islander	3.6%	NA

Sources: Bureau of Justice Statistics, Prison and Jail Inmates at Midyear 2001; 2000 U.S. Census
Note: Incarceration rate includes number of inmates held in state prisons and local jails as of June 30, 2001. It does not include federal prisoners. The table does not include the "other" race category.

Regardless of the degree to which, if any, the state's criminal courts are responsible for the overrepresentation of minorities as defendants, the overrepresentation in arrest and incarceration is an indisputable fact. The wide variety of national and state reports concerning this subject illustrates the complex relationship among race, ethnicity, arrests, and incarceration. Nebraska and the other states in the region appear to illustrate the point. Racial and ethnic minorities are overrepresented as defendants in the criminal justice system, in comparison both to whites and to their percentage in the population.

Black, Hispanic, and Native American Nebraskans are more likely to be arrested and incarcerated than are white Nebraskans. This finding extends across data collected by national entities, like the Bureau of Justice Statistics, as well as by state and local agencies in this and regional states. However, disparity, in and of itself, does not demonstrate the existence of bias or discrimination. Given the data available at the time of the study, it cannot be determined if these differences result from the fair application of neutral policies or the uneven or prejudicial application of the law. Nevertheless, what is known is that disparities exist.

Adult Criminal Justice

In addition to examining the state and national data illustrating racial and ethnic disparities in arrest and incarceration, the Task Force collected data specific to the district and county courts in the state to undertake a more detailed investigation of the role that specific criminal justice system participants play in perpetuating this overrepresentation. Examined below are data provided by the state's three most populous counties.

Methodology and Data Limitations

The objective data that follow include prosecutorial information and defendant biographical data for each felony charge in Douglas, Lancaster, and Sarpy Counties from 1999 to 2001 (except where indicated). Two different data sources were tapped to create the database used by the Task Force. The first, called JUSTICE, is a computer information system that maintains records for the clerks of courts. This system is utilized by each of the 93 Nebraska county courts and all but one of the state's district courts. The one district court that does not take part in the JUSTICE computer system is Douglas County, which includes Omaha, the most diverse and populous city in the state. Douglas County employs another computer data system, which maintains very similar data variables to those kept on JUSTICE. The differences between the databases make combining them into the same dataset difficult; however, where possible, information from both systems is discussed together.

The datasets created by tabulating the information from JUSTICE and Douglas County are not without problems. The Douglas County data are complete for a three-year period beginning in 1999. They include every felony case filed in the Douglas County District Court over that time period; however, the level of detail in the data does not match that found in the JUSTICE database. For instance, among other factors, the Douglas County District Court does not keep computer records of bond types, date posted, and amount.

The JUSTICE computer system has a data "field" for virtually every facet of a criminal case. In this sense, JUSTICE has the potential to be a reliable database to study court activity. However, due to incompatible computer systems and a lack of shared information, many important data fields remain empty. For instance, there were 15,132 felony cases filed in the 93 county courts and each of the district courts other than Douglas County from 2000 to 2001, but the data field for race of the defendant was not entered in 7,354, or 48.6%, of those cases. This means that the race and ethnicity are not known in virtually half of the criminal cases from 2000 and 2001. In these same 15,132 cases, the judgment code, or disposition of

the case, was not entered in 6,437, or 42.5%, of the cases. Similar missing data exists across every data field.

The county and district courts that keep the most complete computerized records are Douglas, Lancaster, and Sarpy Counties, likely due to the sharing of information among local law enforcement agencies and the courts. The Task Force collected the most complete data available for these three counties to provide a context for the analysis of the role of prosecutors, the indigent defense system, pretrial release, and sentencing. The other 90 Nebraska counties are not included in the analysis that follows because the data were incomplete.

Table 2-12: 2000-2001 Felony Charges by Race for Nebraska's Three Most Active District Courts

County	Number	White	Black	Hispanic	Native American	Asian	Other
Douglas	5,126	56.2%	40.2%	2.5%*	0.9%	0.0%**	0.2%
Lancaster	2,240	65.3%	22.3%	7.4%	2.8%	1.4%	0.8%
Sarpy	1,357	79.3%	14.3%	4.6%	0.6%	1.1%	0.1%

Sources: Nebraska Administrative Office of the Courts and Office of the Douglas County District Clerk.
*Douglas County uses the term "Mexican" instead of Hispanic. Since Mexico is a country of origin and not an ethnicity, Douglas County effectively has no records for Hispanics.
**Douglas County categorizes Asians as "Japanese/Chinese" instead of Asian. Again, Japan and China are countries of origin and not a race. This suggests Douglas County's Asian percentages are not an accurate representation of the Asian population arrested in Douglas County.

Prosecutors

When examining the overrepresentation of racial and ethnic minorities as defendants in the criminal justice system, research focuses primarily on arrests, sentencing and incarceration. In examining the criminal justice system it is also important to recognize the role played by prosecutors. Prosecutors are traditionally endowed with considerable discretion in deciding who to charge, what to charge, where to charge, and when to enter into a plea agreement or to offer diversion. Since plea agreements, agreed to by the defendant, the lawyers for both the state and the defense, and the judge, end over 90% of Nebraska criminal cases, prosecutors have a significant role to play in the disposition of the vast majority of criminal convictions. The Task Force recognizes that valid reasons exist for this broad discretion granted to prosecutors and that the facts and circumstances of each case can limit the real discretion a prosecutor may exercise.

Prosecutorial discretion may be used, or be perceived to be used, in a manner that contributes to the overrepresentation of racial and ethnic minorities as defendants in the criminal justice system. The Task Force was unable to access data to support or refute the perceptual data (discussed below) concerning prosecutors. Barriers to studying the role of prosecutors include a lack of access to presentence reports and incomplete data from the courts and prosecutors' offices regarding race and ethnicity.

Prosecutorial discretion can mean that two people who commit similar offenses are charged with different crimes. For instance, prosecutors can charge a person with manslaughter instead of murder, joy riding instead of felony motor vehicle theft, possession of a controlled substance instead of intent to distribute a controlled substance, etc. A prosecutor has the authority to decide whether to charge someone with violating the "habitual offender" statute, which can lead to much longer prison sentences upon conviction. Many subsequent decisions regarding a defendant hinge on the initial charge.

Finally, state prosecutors can offer nontrial remedies for those persons accused of relatively minor offenses, including vehicular citations, drug- and alcohol-related crimes, and minor assaults. Prosecutors in a number of counties offer opportunities for adults to participate in diversion programs to either avoid the criminal justice system or to eliminate the effects of a conviction. Nebraska has not enacted any laws to establish guidelines to ensure that nondiscriminatory criteria are used by prosecutors when offering diversion.

Many diversion programs do not keep data concerning who has been offered or has completed diversion. One reason for the lack of recordkeeping may center on confidentiality concerns. Individuals often enter diversion to keep criminal matters from appearing on their record. Under current law, data concerning participation in a diversion program could be treated as a public record thereby negating the benefit of diversion to participants. Given the lack of easily obtainable data on prosecutions, plea agreements, diversion offers, and other discretionary options exercised by prosecutors, the Task Force was unable to systematically analyze prosecutorial discretion.

Indigent Defense System

Public defenders and assigned counsel hold a unique position in the state's criminal justice system. They serve as lawyers for defendants unable to afford a private lawyer. Because a higher percentage of minorities than whites are poor and thus unable to afford a private attorney, minorities are more likely than whites to need the services of a public defender or assigned counsel. The quality of the legal services provided by public defenders or assigned counsel will affect how minorities are treated in the criminal justice system.

In a 1993 study of Nebraska's indigent defense system (commonly referred to as the Spangenberg Study) there were three major findings regarding the quality of indigent defense legal services in the state of Nebraska. First, the study found a lack of uniformity and consistency in the delivery of indigent defense services. Second, funding, primarily at the county level, was inadequate to meet indigent defense needs. Finally, there was a lack of written standards and guidelines for the operation of indigent defense programs. Since 1993, there have been no further inquiries to determine whether the Spangenberg findings remain true.

As illustrated in Table 2-13, as of June 2001, 24 counties had elected public defenders and another 16 counties had contracted a person or law office to serve as public defender when needed. Hence the remaining 53 Nebraska counties did not have an established public defender. This list includes Dodge County, the seventh most populous Nebraska county. Other than Dodge, most Nebraska counties with larger populations have a dedicated public defender. In counties without established public defenders, or when a public defender has a conflict, the judge appoints a private lawyer who is paid an hourly rate to serve as public defender for a particular case. As a result of the Spangenberg Study, the state of Nebraska created and funded the Nebraska Commission on Public Advocacy. This represented the first state money designated for indigent defense services. In a limited number of cases, the Commission on Public Advocacy provides defense counsel for first degree murder cases and, using federal grant funds, provides services in some drug and violent crime cases.

The American Bar Association has enumerated 10 principles for a public defense system. In short, the ABA finds that public defenders should be well-educated, be independent, have access to adequate resources, have reasonable caseloads, and have the time to effectively defend those without means to fund their own defense. In 2001, the Nebraska legislature created a mechanism and provided funding for the development and implementation of standards for county indigent defense systems. The standards were developed for felony cases, but no other standards were agreed to before the Nebraska Legislature defunded the project in 2002.

Table 2-13: Nebraska Counties with Public Defenders

	Public Defender		Most Populated to Least Populated			Public Defender		Most Populated to Least Populated	
	Elected	Contracted	Overall	Minority		Elected	Contracted	Overall	Minority
Douglas	X		1	1	Fillmore		X	47	49
Lancaster	X		2	2	Howard			48	54
Sarpy	X		3	3	Stanton			49	40
Hall	X		4	4	Dixon			50	34
Buffalo	X		5	10	Boone		X	51	67
Scotts Bluff	X		6	5	Sheridan	X		52	19
Dodge			7	15	Cherry			53	35
Madison	X		8	8	Thayer		X	54	58
Lincoln	X		9	12	Polk			55	62
Platte	X		10	13	Morrill			56	24
Adams	X		11	14	Furnas			57	55
Dawson	X		12	6	Nuckolls			58	68
Cass	X		13	20	Valley			59	57
Gage		X	14	23	Johnson			60	38
Dakota	X		15	7	Kimball			61	45
Saunders			16	32	Chase		X	62	52
Washington			17	30	Webster			63	63
Seward	X		18	33	Nance			64	65
Otoe	X		19	26	Harlan			65	74
York	X		20	27	Franklin			66	77
Saline		X	21	17	Brown			67	69
Box Butte	X		22	16	Sherman			68	70
Custer		X	23	42	Perkins			69	60
Holt	X		24	51	Hitchcock		X	70	66
Red Willow	X		25	31	Frontier			71	71
Colfax		X	26	11	Pawnee			72	78
Cuming			27	22	Greeley			73	73
Wayne			28	36	Boyd			74	83
Cheyenne			29	25	Dundy		X	75	56
Phelps	X		30	37	Garden			76	72
Cedar			31	59	Gosper			77	79
Richardson	X		32	29	Deuel			78	64
Hamilton			33	50	Garfield			79	82
Knox			34	18	Rock			80	84
Dawes	X		35	21	Sioux			81	75
Keith		X	36	28	Hayes			82	81
Butler		X	37	47	Keya Paha			83	80
Jefferson		X	38	48	Wheeler			84	92
Merrick			39	43	Banner			85	76
Pierce	X		40	53	Hooker			86	87
Burt			41	41	Logan			87	86
Nemaha			42	46	Grant			88	90
Antelope		X	43	61	Thomas			89	91
Thurston			44	9	Loup			90	88
Clay		X	45	39	Blaine		X	91	93
Kearney			46	44	McPherson			92	89
					Arthur			93	85

Sources: Commission on Public Advocacy; 2000 U.S. Census

Pretrial Release

Nebraska district and county courts use a bond system to regulate pretrial confinement and to assure court appearance by defendants. Unless released on their own recognizance, defendants "guarantee" their appearance by posting a monetary sum set by the court, and a percentage of that sum is kept by the state. The Nebraska federal court and all other federal courts use a different pretrial services program. A pretrial services staff recommends to the judge whether a defendant should be held for trial or released under provisions established by the court. To do so, the pretrial staff evaluates the flight risk and likelihood that the defendant poses a danger to the community. Those defendants released may be restricted to their residence, electronically monitored, placed in custodial arrangements, or tested for drugs to continuously evaluate their likelihood of flight or level of danger to the community.

In the Nebraska federal court, 57% of all defendants are held in a secure facility prior to trial. The other 43% undergo various forms of supervision, but many continue to work and travel freely in the weeks and months awaiting trial. The national detention rate is slightly lower than 53%. The difference is likely a consequence of the high number of defendants charged with and tried for drug-related offenses in the Nebraska federal court, some of which originate as state cases. Defendants accused of violating federal drug laws are more likely to be detained for trial due to the increased risk of flight or danger to the community.

From January 2001 to December 2002, 721 federal defendants were confined prior to trial. Each defendant cost the federal government $65 per day to incarcerate. Since the average costs for a person released-on-recognizance is $800, a detained defendant begins costing the government more money than a ROR defendant after 12 days. The Nebraska federal court has 13 full time employees to evaluate defendants and oversee the program.

Hundreds of cities and localities around the country use pretrial procedures employing some or all aspects of the federal program. In the past decade, the states of Kentucky, Rhode Island, Connecticut, and Delaware have implemented statewide pretrial confinement services that do not employ a bond mechanism or the bond infrastructure. In each case, the states report budget savings from money that would have been spent confining defendants or paying for the infrastructure necessary to confine a large percentage of defendants. This money is reinvested into the criminal justice system.

The bond system currently used by the state of Nebraska depends on the ability to pay. In the state of Nebraska, one out of every 19 whites earns below the poverty rate. By contrast, one in five blacks, one in five Native Americans, and one in 10 Asians earn below the poverty rate. Hence, in general, racial and ethnic minorities are less likely to have the resources to pay a bond amount or post the bond set by the court.

There are various concerns related to the effect of minority status on the bond amount set by the state's district and county courts or the defendant's ability to pay. Determining bond amount is a complicated process. A judge can take into account a number of criteria, such as the defendant's likelihood of flight, the likelihood of filing additional charges, and the likelihood that the defendant might be a danger to the public. The judge evaluates the nature and circumstances of the charge(s), the weight of the evidence against the defendant, the injury to the victim, the defendant's record of appearance, and his or her criminal history. Finally, the judge takes into account the defendant's personal status, including family ties, employment, financial resources, and mental condition, to determine an appropriate bond amount.

The JUSTICE data from Lancaster and Sarpy County District Courts includes bond information, but not in a format that allows the Task Force to examine the direct effects race and ethnicity have on setting bond amounts. Instead, the data kept on JUSTICE tend to track only bonds that have been posted, instead of the bond amount set by the court. From these data, it appears that white defendants are more likely to post bond than minority defendants. Of those defendants who post bonds, the data indicate that minority defendants tend to pay somewhat higher bonds than white defendants.

For instance, in Table 2-14, where defendants have been accused of violating Neb. Rev. Stat. § 28-416(3) (Cum. Supp. 2002), simple possession of a controlled substance, whites are more likely to

receive signature bonds and tend to post a lower bond amount than minority defendants. This table only includes those charged in Lancaster and Sarpy Counties because the Douglas County District Court does not include specific bond amounts in its database.

Table 2-14: Posted Bond Amounts for Persons Charged with § 28-416(3) Possession of a Controlled Substance

Bond Amount	Number	White	Black
$0	119	26.3%	24.3%
$1-50	100	44.5%	38.7%
$51-250	59	20.9%	24.3%
$251-750	51	5.7%	14.0%
$751+	12	2.6%	2.7%
Total	351	100%	100%

Sources: Nebraska Administrative Office of the Courts.
Note: This includes only defendants charged with felonies in Lancaster and Sarpy Counties. Bond amounts are not kept on an individual basis in the Douglas County computer system.

The pretrial procedures utilized by Kentucky, Rhode Island, Connecticut, and Delaware appear to have several direct and indirect benefits that the Nebraska bond system does not have. For instance, this type of pretrial arrangement mitigates concerns over the fairness of a system that allows persons of equal risk unequal access to pretrial release due to financial considerations. Other important benefits include reducing the need for holding facilities, and providing increased oversight of defendant behavior. The indirect benefits of pretrial release are that defendants can maintain employment and contribute to the state's tax base.

Sentencing

Various scholars have analyzed the effects of race and ethnicity on criminal dispositions. This research suggests that the evidence demonstrating disparate treatment based on race or ethnicity is mixed. In reports similar to this one, several states have found concerns related to criminal dispositions and sentencing; however, these concerns have arisen from aggregated data, which can only speak to an "overrepresentation" of one group over another and not the specific cause(s) of overrepresentation.

The factors affecting court outcomes are diverse and ambiguous enough to make statistical analysis difficult. That does not mean, however, that relationships are impossible to find. For instance, data from the state's most populous county indicate that whites and blacks convicted of possession of a controlled substance are sufficiently dissimilar as to warrant further scrutiny (Neb. Rev. Stat. § 28-416(3) (Cum. Supp. 2002)).

Table 2-15 illustrates that black defendants in Douglas County from 1999 through 2001 were more likely than white defendants to receive jail or prison time for a simple possession conviction. The Task Force chose to examine simple possession because it is a frequently charged felony for which a variety of sentences are imposed. Table 2-15 takes all single-count cases of § 28-416(3) in Douglas County for the years 1999-2001 and illustrates the likelihood that a white or black defendant will be incarcerated. Six cases, five involving white defendants and one involving a black defendant, were removed because simple possession was not the only charge in the indictment. Due to the small number of simple possession cases involving Native Americans and Asians in Douglas County, only whites and blacks were included in the analysis.

Table 2-15: Sentences for Whites and Blacks Convicted in Douglas County District Court in 1999-2001 § 28-416(3), Possession of a Controlled Substance

	White		Black	
	Raw Number	Percentage	Raw Number	Percentage
Incarceration	206	60.9%	206	75.5%
Probation	110	32.5%	61	22.3%
Fine	22	6.5%	6	2.2%
Total	338	100%	273	100%

Source: Office of the Douglas County District Court Clerk.
Note: Those sentenced to incarceration and probation were coded as incarceration. Those sentenced to incarceration and fine were coded as incarceration. Those sentenced to probation and fine were coded as probation.

Table 2-15 illustrates that blacks in Douglas County are sentenced for simple possession of a controlled substance at a greater than expected rate, given the percentage of blacks in the county's population. While 11.5% of Douglas County's population is black, over 44% of those convicted of simple felony possession of a controlled substance are black. In addition, of all whites and blacks incarcerated for simple felony possession of a controlled substance, 50% are black.

Without the presentence report for each of these cases, it is not possible to analyze to what extent factors such as criminal history, substance abuse history, and employment history influenced sentencing. Nevertheless, the findings illustrated in Table 2-15 are cause for further study.

Juvenile Justice

There have been and are currently several research endeavors in the state of Nebraska aimed at assessing and alleviating potential bias in the juvenile justice system. The Nebraska Crime Commission primarily directs these through assorted programs funded by federal legislation designed to eliminate disproportionate minority juvenile confinement.

Disproportionate Minority Juvenile Arrest

As with the adult criminal justice system, minorities are disproportionately represented compared to whites among those arrested and those incarcerated in Nebraska's corrections system. Nationally, this disproportionate representation is most striking among blacks. A recent report from the United States Department of Justice Bureau of Justice Statistics found that black youth ages 10 to 17 make up 15% of the United States adolescent population and 26% of juvenile arrests. When these cases move through the juvenile court system, black youth represent 32% of delinquency referrals, 41% of detained juveniles, and 52% of juveniles transferred to adult courts (United States Department of Justice Bureau of Justice Statistics *Report on Juveniles Prosecuted in State Criminal Courts* 1997).

In Nebraska, minority youth, including black, Hispanic, Native American, and Asian, represent 14% of the population, 19% of all juvenile arrests, 40% of commitments, and 44% of those in secure detention. This means minority juveniles, while more likely to be arrested than white juveniles, are substantially more likely to remain detained than white juveniles.

Tables 2-16 through 2-21 delineate juvenile arrest ratios by state and race in order to compare across the region. Overall, Nebraska has the fourth highest number of juvenile arrests for the region, closely following South Dakota and Colorado. The arrest rates in Colorado and South Dakota are only incrementally greater than the rates witnessed in Nebraska. Conversely, the state's juvenile arrest rates are substantially greater than the rates in Kansas and Missouri in every category.

Table 2-16: Arrests in Nebraska per 10,000 Citizens for the Year 2000
– All Juveniles Separated by Race –

Offense Classification	Number Arrested	White	Black	Native American	Asian
Murder and Manslaughter	3	0.05	0.41	0.00	0.00
Forcible Rape	22	0.29	4.13	0.00	1.67
Robbery	81	1.15	14.46	3.39	0.00
Aggravated Assault	118	2.19	11.57	10.17	0.00
Burglary- Breaking or Entering	419	8.95	23.14	30.51	3.33
Larceny	3,976	72.55	428.10	203.39	65.00
Motor Vehicle Theft	208	4.33	14.46	8.47	3.33
Other Assaults	1,798	36.60	136.36	86.44	23.33
Arson	119	2.71	3.31	11.86	0.00
Forgery and Counterfeiting	71	1.64	2.48	3.39	0.00
Fraud	108	2.16	9.50	1.69	1.67
Embezzlement	16	0.34	1.24	0.00	0.00
Buying, Receiving, Possessing Stolen Property	257	4.54	31.40	11.86	0.00
Vandalism	1,358	29.27	83.88	52.54	3.33
Weapons: Carrying, Possessing, etc.	202	4.02	18.18	5.08	1.67
Prostitution and Commercialized Vice	9	0.21	0.41	0.00	0.00
Other Sex Offenses	141	3.03	9.50	3.39	0.00
Drug Abuse Violations	1,368	28.96	99.59	25.42	3.33
Gambling	2	0.00	0.83	0.00	0.00
Offenses Against Family and Children	30	0.57	2.89	1.69	0.00
Driving Under the Influence	398	9.99	2.89	8.47	5.00
Liquor Laws	2,509	62.30	29.34	72.88	11.67
Drunkenness	0	0.00	0.00	0.00	0.00
Disorderly Conduct	811	17.09	57.85	20.34	6.67
Vagrancy	1	0.03	0.00	0.00	0.00
All Other Offenses (Except Traffic)	3,089	66.21	204.55	83.05	11.67
Suspicion	0	0.00	0.00	0.00	0.00
Curfew and Loitering Law Violations	688	16.44	7.85	55.93	10.00
Runaways	376	9.08	8.68	8.47	3.33
Total	18,178	384.71	1207.02	708.47	155.00

Sources: Bureau of Justice Statistics *Arrest Report 2000* and the 2000 U.S. Census.
Note: The Bureau of Justice Statistics, which keeps statistics for the United States Department of Justice, does not keep ethnicity data. Hence no data are available for "Hispanics." In addition, the Bureau of Justice Statistics defines "juvenile" as an individual 17 years of age or younger.
Calculations: See Table 2-3 for calculation method.

Table 2-17: Arrests Among Regional States per 10,000 Citizens for the Year 2000
– All Juveniles Without Regard to Race –

Offense Classification	Nebraska	Colorado	Iowa	Kansas	Missouri	South Dakota	Wyoming
Murder and Manslaughter	0.07	0.05	0.04	0.07	0.27	0.05	0.00
Forcible Rape	0.49	0.69	0.37	0.39	0.41	0.74	0.39
Robbery	1.80	1.99	1.20	0.22	2.56	0.54	0.70
Aggravated Assault	2.62	5.91	8.83	4.46	4.60	3.95	6.75
Burglary- Breaking or Entering	9.31	9.57	12.80	6.37	7.28	11.70	12.49
Larceny	88.32	70.10	63.44	29.33	38.31	67.37	74.79
Motor Vehicle Theft	4.62	10.00	4.39	3.14	6.89	4.44	4.65
Other Assaults	39.94	27.10	31.33	29.48	26.99	18.41	36.77
Arson	2.64	1.94	1.10	0.80	0.70	1.04	1.47
Forgery and Counterfeiting	1.58	1.04	1.09	0.66	0.53	0.94	0.93
Fraud	2.40	1.31	0.94	0.32	0.32	0.59	1.32
Embezzlement	0.36	0.03	0.45	0.15	0.16	0.69	0.00
Stolen Property Offenses	5.71	1.85	0.90	1.16	1.32	2.32	1.94
Vandalism	30.16	19.37	18.14	10.29	10.95	15.45	16.76
Weapons: Carrying, Possessing, etc.	4.49	6.51	2.06	1.53	2.97	3.55	4.34
Prostitution/Commercialized Vice	0.20	0.10	0.00	0.00	0.10	0.00	0.00
Other Sex Offenses	3.13	2.93	1.12	1.14	1.77	1.43	1.78
Drug Abuse Violations	30.39	28.12	17.45	16.42	18.78	25.66	37.70
Gambling	0.04	0.01	0.00	0.00	0.04	0.00	0.00
Offenses Against Family/Children	0.67	0.86	0.08	0.38	0.81	3.85	1.32
Driving Under the Influence	8.84	4.75	3.97	4.50	1.99	4.24	6.83
Liquor Laws	55.73	40.65	40.34	25.25	7.66	97.24	134.37
Drunkenness	0.00	0.15	4.88	0.03	0.27	1.18	5.04
Disorderly Conduct	18.01	30.20	21.48	10.20	10.78	19.20	33.67
Vagrancy	0.02	0.19	0.00	0.00	1.44	0.00	0.47
All Other Offenses (Except Traffic)	68.61	84.05	42.23	21.78	34.13	84.50	129.33
Suspicion	0.00	0.01	0.00	0.00	0.74	0.00	8.53
Curfew/Loitering Law Violations	15.28	40.58	13.99	0.00	7.86	17.03	59.12
Runaways	8.35	43.34	10.93	28.20	11.70	40.82	13.58
Total	403.78	434.31	303.55	196.28	202.31	426.95	595.03

Sources: Bureau of Justice Statistics *Arrest Report 2000* and the 2000 U.S. Census.
Note: The Bureau of Justice Statistics, which keeps statistics for the United States Department of Justice, does not keep ethnicity data. Hence no data are available for "Hispanics." In addition, the Bureau of Justice Statistics defines "juvenile" as an individual 17 years of age or younger.
Calculations: See Table 2-3 for calculation method.

Table 2-18: Arrests Among Regional States per 10,000 Citizens for the Year 2000
– White Juveniles –

Offense Classification	Nebraska	Colorado	Iowa	Kansas	Missouri	South Dakota	Wyoming
Murder and Manslaughter	0.05	0.05	0.05	0.07	0.05	0.06	0.00
Forcible Rape	0.29	0.73	0.36	0.38	0.15	0.73	0.44
Robbery	1.15	1.69	0.69	0.16	0.70	0.61	0.52
Aggravated Assault	2.19	6.27	7.56	4.61	2.16	2.91	6.97
Burglary- Breaking or Entering	8.95	10.44	12.51	7.16	5.02	11.62	12.63
Larceny	72.55	74.52	55.98	31.57	25.62	59.93	78.31
Motor Vehicle Theft	4.33	9.80	3.59	3.17	2.03	4.12	5.14
Other Assaults	36.60	27.74	27.41	31.00	17.77	14.04	38.85
Arson	2.71	2.43	1.17	0.83	0.46	0.97	1.48
Forgery and Counterfeiting	1.64	1.16	1.13	0.62	0.40	0.97	1.05
Fraud	2.16	1.37	0.95	0.38	0.27	0.67	1.48
Embezzlement	0.34	0.04	0.39	0.19	0.08	0.85	0.00
Stolen Property Offenses	4.54	1.86	0.80	1.04	0.82	1.45	2.09
Vandalism	29.27	22.44	18.15	11.68	6.23	13.98	17.94
Weapons: Carrying, Possessing, etc.	4.02	7.06	1.95	1.66	1.65	2.97	4.09
Prostitution/Commercialized Vice	0.21	0.13	0.00	0.00	0.04	0.00	0.00
Other Sex Offenses	3.03	3.33	1.20	1.26	1.05	1.39	2.00
Drug Abuse Violations	28.96	31.75	16.59	18.75	11.20	28.27	40.85
Gambling	0.00	0.01	0.00	0.00	0.01	0.00	0.00
Offenses Against Family/Children	0.57	1.00	0.09	0.41	0.69	4.48	1.48
Driving Under the Influence	9.99	5.92	4.23	5.43	1.93	4.06	7.06
Liquor Laws	62.30	50.90	43.23	30.00	7.19	87.53	138.68
Drunkenness	0.00	0.189	4.94	0.02	0.25	1.15	5.57
Disorderly Conduct	17.09	31.29	19.71	10.47	7.41	18.22	36.06
Vagrancy	0.026	0.25	0.00	0.00	1.29	0.00	0.52
All Other Offenses (Except Traffic)	66.21	91.55	41.29	22.71	25.65	76.15	135.45
Suspicion	0.00	0.01	0.00	0.00	0.64	0.00	9.58
Curfew/Loitering Law Violations	16.44	45.20	13.86	0.00	6.53	14.65	63.41
Runaways	9.08	46.71	11.34	30.54	9.66	35.17	14.55
Total	384.71	475.83	289.17	214.11	136.86	386.92	626.22

Sources: Bureau of Justice Statistics *Arrest Report 2000* and the 2000 U.S. Census.
Note: The Bureau of Justice Statistics, which keeps statistics for the United States Department of Justice, does not keep ethnicity data. Hence no data are available for "Hispanics." In addition, the Bureau of Justice Statistics defines "juvenile" as an individual 17 years of age or younger.
Calculations: See Table 2-3 for calculation method.

Table 2-19: Arrests Among Regional States per 10,000 Citizens for the Year 2000
– Black Juveniles –

Offense Classification	Nebraska	Colorado	Iowa	Kansas	Missouri	South Dakota	Wyoming
Murder and Manslaughter	0.41	0.40	0.00	0.20	1.56	0.00	0.00
Forcible Rape	4.13	2.78	0.91	1.19	1.80	0.00	0.00
Robbery	14.46	14.88	16.82	1.39	13.02	6.25	0.00
Aggravated Assault	11.57	20.63	57.27	9.33	16.92	18.75	9.09
Burglary- Breaking or Entering	23.14	26.39	39.55	6.75	16.38	37.5	0.00
Larceny	428.10	234.72	350.45	43.25	91.57	250.00	181.82
Motor Vehicle Theft	14.46	47.42	33.18	6.55	33.93	0.00	9.09
Other Assaults	136.36	133.93	187.27	55.95	66.80	156.25	118.18
Arson	3.31	0.99	1.36	1.59	1.71	0.00	0.00
Forgery and Counterfeiting	2.48	2.78	1.82	2.18	0.98	0.00	0.00
Fraud	9.50	4.56	1.82	0.20	0.39	0.00	0.00
Embezzlement	1.24	0.00	2.73	0.00	0.59	0.00	0.00
Stolen Property Offenses	31.40	7.94	5.00	2.78	3.56	31.25	9.09
Vandalism	83.88	40.08	48.18	10.12	33.69	43.75	27.27
Weapons: Carrying, Possessing, etc.	18.18	21.43	8.64	2.38	9.26	12.50	27.27
Prostitution/Commercialized Vice	0.41	0.00	0.00	0.00	0.39	0.00	0.00
Other Sex Offenses	9.50	7.54	0.91	1.59	5.17	6.25	0.00
Drug Abuse Violations	99.59	74.21	64.09	14.48	54.22	31.25	90.91
Gambling	0.83	0.00	0.00	0.00	0.24	0.00	0.00
Offenses Against Family/Children	2.89	1.98	0.00	0.40	0.83	0.00	0.00
Driving Under the Influence	2.89	2.78	2.73	0.79	0.73	0.00	0.00
Liquor Laws	29.34	25.40	24.55	9.13	4.24	237.50	172.73
Drunkenness	0.00	0.00	8.18	0.20	0.15	0.00	9.09
Disorderly Conduct	57.85	125.20	100.91	21.43	24.67	131.25	81.82
Vagrancy	0.00	0.00	0.00	0.00	1.22	0.00	0.00
All Other Offenses (Except Traffic)	204.55	256.75	125.45	41.07	62.85	287.50	309.09
Suspicion	0.00	0.00	0.00	0.00	0.78	0.00	0.00
Curfew/Loitering Law Violations	7.85	102.18	31.36	0.00	10.29	18.75	72.73
Runaways	8.68	132.74	14.55	43.06	15.55	193.75	18.18
Total	1,207.02	1,287.70	1,127.73	275.99	473.48	1,462.50	1136.36

Sources: Bureau of Justice Statistics *Arrest Report 2000* and the 2000 U.S. Census.
Note: The Bureau of Justice Statistics, which keeps statistics for the United States Department of Justice, does not keep ethnicity data. Hence no data are available for "Hispanics." In addition, the Bureau of Justice Statistics defines "juvenile" as an individual 17 years of age or younger.
Calculations: See Table 2-3 for calculation method.

Table 2-20: Arrests Among Regional States per 10,000 Citizens for the Year 2000
– Native American Juveniles –

Offense Classification	Nebraska	Colorado	Iowa	Kansas	Missouri	South Dakota	Wyoming
Murder and Manslaughter	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Forcible Rape	0.00	0.00	0.00	0.00	0.00	1.08	0.00
Robbery	3.39	0.00	16.13	0.00	0.00	0.00	7.32
Aggravated Assault	10.17	3.82	45.16	3.85	2.94	10.43	14.63
Burglary- Breaking or Entering	30.51	7.63	38.71	3.85	1.47	14.03	36.59
Larceny	203.39	48.85	251.61	5.13	7.35	120.50	107.32
Motor Vehicle Theft	8.47	7.63	22.58	5.13	1.47	7.91	0.00
Other Assaults	86.44	13.74	135.48	11.54	5.88	41.73	34.15
Arson	11.86	0.76	0.00	0.00	0.00	1.80	4.88
Forgery and Counterfeiting	3.39	0.76	0.00	0.00	0.00	1.08	0.00
Fraud	1.69	0.00	6.45	0.00	0.00	0.36	0.00
Embezzlement	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Stolen Property Offenses	11.86	0.76	6.45	6.41	0.00	6.47	0.00
Vandalism	52.54	11.45	25.81	2.56	2.94	26.26	17.07
Weapons: Carrying, Possessing, etc.	5.08	2.29	6.45	0.00	1.47	7.19	12.20
Prostitution/Commercialized Vice	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other Sex Offenses	3.39	0.76	0.00	0.00	0.00	1.80	0.00
Drug Abuse Violations	25.42	6.11	67.74	8.97	4.41	16.55	17.07
Gambling	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Offenses Against Family/Children	1.69	0.00	0.00	1.28	0.00	1.44	0.00
Driving Under the Influence	8.47	0.76	3.23	1.28	0.00	6.83	17.07
Liquor Laws	72.88	8.40	25.81	8.97	0.00	173.02	290.24
Drunkenness	0.00	0.00	32.26	0.00	0.00	1.80	0.00
Disorderly Conduct	20.34	4.58	93.55	7.69	0.00	23.74	24.39
Vagrancy	0.00	0.00	0.00	0.00	0.00	0.00	0.00
All Other Offenses (Except Traffic)	83.05	35.88	129.03	7.69	2.94	144.96	185.37
Suspicion	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Curfew and Loitering Law Violations	55.93	27.48	67.74	0.00	0.00	35.97	60.98
Runaways	8.47	24.43	9.68	8.97	4.41	76.62	14.63
Total	708.47	206.11	983.87	80.77	35.29	721.58	843.90

Sources: Bureau of Justice Statistics *Arrest Report 2000* and the 2000 U.S. Census.
Note: The Bureau of Justice Statistics, which keeps statistics for the United States Department of Justice, does not keep ethnicity data. Hence no data are available for "Hispanics." In addition, the Bureau of Justice Statistics defines "juvenile" as an individual 17 years of age or younger.
Calculations: See Table 2-3 for calculation method.

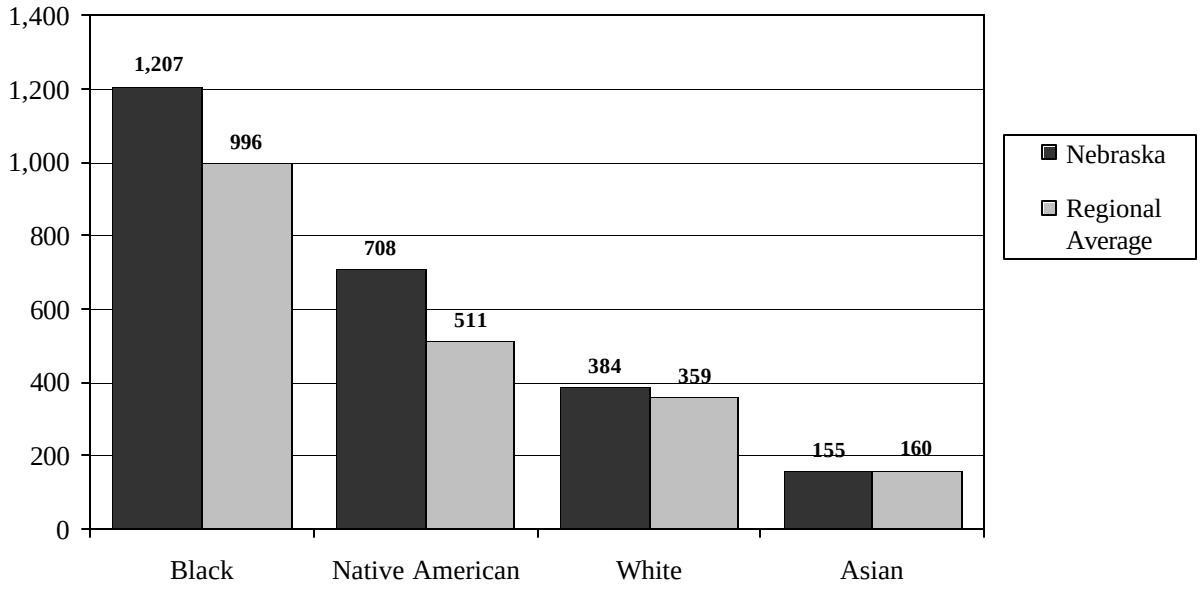
Table 2-21: Arrests Among Regional States per 10,000 Citizens for the Year 2000
– Asian or Pacific Islander Juveniles –

Offense Classification	Nebraska	Colorado	Iowa	Kansas	Missouri	South Dakota	Wyoming
Murder and Manslaughter	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Forcible Rape	1.67	0.00	0.94	0.00	0.00	0.00	0.00
Robbery	0.00	0.40	0.00	0.00	0.65	0.00	0.00
Aggravated Assault	0.00	4.40	3.77	1.59	4.52	0.00	0.00
Burglary- Breaking or Entering	3.33	10.00	5.66	2.38	1.94	0.00	16.67
Larceny	65.00	62.40	69.81	30.95	19.35	0.00	16.67
Motor Vehicle Theft	3.33	8.80	2.83	2.38	3.23	0.00	0.00
Other Assaults	23.33	15.60	16.98	11.11	3.87	0.00	16.67
Arson	0.00	0.80	0.00	0.79	0.65	0.00	0.00
Forgery and Counterfeiting	0.00	0.40	0.94	0.00	0.00	0.00	0.00
Fraud	1.67	2.00	0.00	0.00	0.00	0.00	0.00
Embezzlement	0.00	0.00	0.94	0.00	0.00	0.00	0.00
Stolen Property Offenses	0.00	2.00	0.00	3.17	1.29	0.00	0.00
Vandalism	3.33	6.00	6.60	3.17	1.94	15.38	0.00
Weapons: Carrying, Possessing, etc.	1.67	3.20	0.00	0.79	2.58	7.69	16.67
Prostitution/Commercialized Vice	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other Sex Offenses	0.00	0.80	0.00	0.00	0.00	0.00	0.00
Drug Abuse Violations	3.33	9.20	11.32	3.17	4.52	15.38	0.00
Gambling	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Offenses Against Family/Children	0.00	0.00	0.00	0.00	1.94	0.00	0.00
Driving Under the Influence	5.00	2.40	1.89	0.79	0.65	0.00	0.00
Liquor Laws	11.67	9.20	15.09	6.35	3.23	38.46	33.33
Drunkenness	0.00	0.00	0.94	0.00	0.00	0.00	0.00
Disorderly Conduct	6.67	14.40	10.38	4.76	0.65	7.69	16.67
Vagrancy	0.00	0.00	0.00	0.00	0.00	0.00	0.00
All Other Offenses (Except Traffic)	11.67	61.60	28.30	19.05	7.74	38.46	33.33
Suspicion	0.00	0.00	0.00	0.00	0.65	0.00	0.00
Curfew and Loitering Law Violations	10.00	34.40	11.32	0.00	1.29	0.00	16.67
Runaways	3.33	44.80	10.38	13.49	3.23	15.38	0.00
Total	155.00	292.80	198.11	103.97	63.87	138.46	166.67

Sources: Bureau of Justice Statistics *Arrest Report 2000* and the 2000 U.S. Census.
Note: The Bureau of Justice Statistics, which keeps statistics for the United States Department of Justice, does not keep ethnicity data. Hence no data are available for "Hispanics." In addition, the Bureau of Justice Statistics defines "juvenile" as an individual 17 years of age or younger.
Calculations: See Table 2-3 for calculation method.

Figure 2-4 is a graphical representation of the preceding tables. It illustrates Nebraska's arrest rates of juveniles in relation to the regional average for the year 2000. Nebraska arrests 17.5% more black juveniles per 10,000 than the average of states in Nebraska's region. The same is true of Native American juveniles, who are arrested at a rate over 27.8% more frequently than in regional states. Conversely, Nebraska arrests only slightly more (6.6%) white juveniles per 10,000 than the average of the regional states. Among Asians or Pacific Islanders, Nebraska tends to arrest slightly fewer than the average of the region.

Figure 2-4: Juvenile Arrests in Nebraska Compared to the Regional Average in 2000 per 10,000 Citizens



Sources: Bureau of Justice Statistics; 2000 U.S. Census.

Disproportionate Minority Confinement

National research showing racial disparity in the arrest, prosecution, and incarceration of minorities in the juvenile justice system prompted the federal government to take action. In 1988, an amendment was made to the Juvenile Justice and Delinquency Prevention Act that encourages states to reduce juvenile racial disparity in secure detention facilities, secure correctional facilities, jails, and lockups if such disparities are not representative of the general population. Under the Juvenile Justice and Delinquency Prevention Act, disproportionate minority confinement exists when the proportion of youths detained or confined in secure detention facilities, secure correctional facilities, jails and lockups who are members of minority groups exceed their groups' proportion in the general population.

In virtually every state, at every stage of the juvenile justice system, minority youth are overrepresented as compared both to whites and to minority percentage in the population, particularly in secure confinement. Current federal statutes direct states to determine the extent to which disproportionate minority confinement exists, to assess the reason that it exists, and to develop intervention strategies to address the causes. The law does not require, and has never resulted in, the release of any youths from custody based on race, nor has it required numerical quotas for arrests. In reaction to this initiative, Nebraska has undergone two investigations of minority youth confinement, one in 1993 and another in 1999. The major findings of these investigations are:

- Nebraska has an estimated minority youth population of 14%.
- In 1997, minority youth made up 40% of commitments to public facilities and 44% of secure detention placements.
- In a four county investigation, minority youths were overrepresented in juvenile referrals to adult court, predetention decisions, petition decisions, and secure confinement decisions.

According to the Nebraska Crime Commission, the final requirement of the federal mandate is "to provide system recommendations aimed at preventing unwarranted overrepresentation in the future." This aspect of the state's burden is still under development. A significant recommendation arising from the 1999 study was to establish a coordinated, consistent, interconnected database to maintain juvenile arrest and disposition information (The Disproportionate Confinement of Minority Youth in Nebraska 1999).

Detention Rates

The U.S. Office of Juvenile Justice and Delinquency Prevention reports that, nationally, custody rates for black juveniles are substantially higher than are rates for other groups. The following table demonstrates that this trend extends to Nebraska and those states in Nebraska's region.

Table 2-22: 1999 Juvenile Custody Rate per 10,000*

	White	Black	Hispanic	Native American	Asian
Nebraska	23	175	72	142	18
Colorado	24	140	71	62	21
Iowa	24	225	74	170	24
Kansas	25	177	60	60	48
South Dakota	36	NA	240	120	NA
Missouri	17	74	24	4	7
Wyoming	45	NA	85	124	NA
National	20	102	52	53	20

Source: Adapted from *Juvenile Offenders and Victims: 1999 National Report*.
*The custody rate is the number of juveniles in residential placement per 10,000 juveniles ages 10 through the upper age of original juvenile court jurisdiction in each state. Since ethnicity data are not kept, the race rate variable does not include persons of Hispanic ethnicity.

Custody rates for white juveniles in Nebraska and other states in the region closely mirror the national average of 20 per 10,000. Custody rates for minorities in Nebraska and the region's other states suggest a consistent overrepresentation compared to the national trend. Specifically, the rates in all the states in the region except Missouri are substantially higher than the national rate for black juvenile custody. The same can be said for Hispanic and Native American custody rates, where Nebraska again is substantially above the national average respectively – rates similar to those of the other regional states. Only in terms of Asian juvenile custody rates is Nebraska below the national average.

Juvenile Diversion Services

Juvenile diversion programs exist to divert youth from early encounters with the juvenile court system or adult criminal justice system. These programs involve a suspension of formal criminal or juvenile justice proceedings against an alleged offender. The program may require the referral of that individual to a treatment or care program. Diversion programs usually are offered for first-time offenders, but may be extended to youth with a criminal record, depending on the judgment of the county attorney. Not every juvenile is eligible for diversion.

The requirements for diversion are complex and at times difficult to meet, especially for minority youth less likely to have reliable transportation or the money to pay for services. The county attorney who refers the juvenile to diversion may require that a parent take part in the program as well. Thus, those juveniles with parents unable to attend may be less likely to receive a diversion referral. Even if eligible, the lack of fluency in English by juveniles and their families is often a barrier to participation in diversion services.

There are several benefits to participating in diversion services. Most important it keeps the juvenile out of the juvenile justice system. Aside from reducing the stigma attached to court convictions and reducing recidivism, diversion programs keep youth out of juvenile detention facilities. Not all communities offer the same types of diversion, however. Some Nebraska counties offer juvenile pretrial diversion programs, in which youth are diverted before any contact with the juvenile court, or diversion options may come after the juvenile justice process has begun. In the event of pretrial diversion, youth are referred by the county attorney, who determines the eligibility of the alleged offender. Youth participate in these programs voluntarily.

One private facility that accepts city and state diversion placements is Cedars Youth Services in Lincoln, Nebraska. In the facility's 2000-2001 report, it noted that minority youth are less likely than white youth to participate in diversion, for a variety of reasons, and to proceed to adjudication in juvenile court. This finding confirms what other states report is a significant hindrance to minority diversion opportunity.

In fiscal year 2000-2001, 1,173 juvenile cases were referred to Cedars Youth Services juvenile diversion, 34% of which were referred by the city and 66% of which were referred by the county attorney's office. Race was a significant variable in whether eligible youth enrolled in juvenile diversion services. Over three-quarters (81%) of all cases referred involved white youth (80% of successful graduates were white) and 19% are minority youth (18% of successful graduates were minority youth). A large number of minority youth (31%) did not enroll in diversion even when given the opportunity.

Another diversion program of note is the United Methodist Community Centers, commonly referred to as Wesley House. It operates two pretrial diversion programs for juveniles in Douglas County, one for high-risk juveniles, 8 to 13 years old who are status offenders (truancy, ungovernable behavior, shoplifting, etc.). The other program is for first-time misdemeanor offenders between the ages of 14 and 17. Since the two programs began in 1998, United Methodist Community Centers has received 245 referrals, 116 of whom were white (47.3%), 77 black (31.4%), 48 Hispanic (19.6%), and four whose race was not identified (1.6%). Like the Cedars Youth Services, minority juveniles referred to the United Methodist Community Centers are more likely to forego the diversion option than white juveniles.

While referrals to diversion in the cited examples appear to be neutral, minority juveniles participate at a lower rate than white juveniles. The barriers discussed in this report suggest areas of concern for further study and action.

Experiences in and Perceptions about Nebraska's Criminal Justice System

In addition to the statistical evidence from federal and state agencies to evaluate Nebraska's courts, the Task Force also collected various "perception" and "experiential" data to help illuminate the attitudes of people who work in Nebraska's courts or who are members of the Nebraska State Bar Association. In addition, members of the public were invited to give public or private testimony at any of eight public hearings held across the state. Focus groups also were held with minority law students and minority practicing lawyers.

Many of the topics covered in these surveys, public hearings, and focus groups are elaborated upon in this section of the report. The data collected suggest certain trends and relationships, which will be discussed in greater detail later in the report. It should be noted, however, that both experiential and perception data speak to a person's opinions and underlying attitudes. The Task Force includes them to illustrate community sentiment rather than an assessment of objective reality.

At an Omaha public hearing, the Task Force received the following testimony from a black woman, attesting to the perception that minorities are the victims of unequal justice. This person, who has served as a court-watcher for decades, spoke about her experiences participating in court studies. She concluded by stating that minority defendants receive disparate treatment.

> When I sit through criminal trials…do you want to know who is prosecuted, who gets bond, who is convicted and how long the sentence is?…You know that it's the people of color who receive the longest sentence, most likely to be convicted, either get excessive bond or no bond -- because half the time they're not able to make it -- and who are prosecuted.

Prosecutors

The origin point for a large part of the court's activities regarding the criminal justice system is when the county attorney becomes involved in the case. In the surveys of court personnel and Bar members, respondents were asked to assess by a number of different measures the extent to which they believe all citizens are treated equally, including likelihood of being charged, likelihood of receiving a favorable plea agreement and other like measures. Each inquires to a varying degree about the actions of the state's prosecutors.

Specifically, respondents were asked about the role of the prosecutor in dispensing equal justice. For example, Bar members were asked, "Are prosecutors more likely to file criminal charges when the defendant is white, minority, or is there is no difference between the two?" Over 77% (77.5%) of white respondents concluded that there was no difference in the likelihood of charges being filed for minority or white defendants. Among minority lawyers responding to the survey, however, 36.7% believed that there was no difference in the likelihood of being charged. Virtually no one believed that prosecutors are more likely to file charges against a white defendant.

Table 2-23: Prosecutors Are More Likely to File Charges Against:

	Number	White Defendants	Minority Defendants	No Difference
White	436	1.4%	21.1%	77.5%
Minority	30	0.0%	63.3%	36.7%
Total	466	1.3%	23.8%	74.9%

The race or ethnicity of the victim may also affect the decision to prosecute. Again, a majority of white Bar members (76.4%) believed that prosecutors were unaffected by the race or ethnicity of the victim when making the decision to prosecute. Minority Bar members, however, were substantially more likely to believe that prosecutors were predisposed to file charges when victims were white than when the victims were not white. Four in 10 minority Bar members (40.0%) reported that the victim's race did not affect the likelihood to prosecute. Half of the minority members of the Nebraska State Bar Association responding to the survey responded that prosecutors are more likely to file a charge if the victim is white.

Table 2-24: Prosecutors Are More Likely to File Charges When the Victims Are:

	Number	White Victim	Minority Victim	No Difference
White	437	22.7%	0.9%	76.4%
Minority	30	50.0%	10.0%	40.0%
Total	467	24.4%	1.5%	74.1%

Due to the complexity of the plea agreement process and the various factors that are taken into account in arranging a plea agreement, it is very difficult to collect the data necessary to make any objective claims about the effects of race or ethnicity. This does not minimize the import of plea agreements, however, as fewer than 10% of felony convictions are decided by a judge or jury. The vast majority of all cases end in a plea agreement, making this process one worthy of investigation.

When asked about the process by which plea agreements are offered, a significant difference of opinion arose between white and minority Bar members concerning the favorability of plea arrangements for white and minority defendants. Whereas 76.1% of white members of the Nebraska State Bar Association responded that there is no difference based on race or ethnicity in the plea agreements offered by prosecutors, 40.0% of minority Bar members came to the same conclusion. As with the question about the increased likelihood of filing charges against a white defendant, only a very small percentage of those responding to the survey felt prosecutors are more likely to make favorable plea agreements with minority defendants.

Table 2-25: Prosecutors Are More Likely to Make Favorable Plea Offers When Defendants Are:

	Number	White Defendants	Minority Defendants	No Difference
White	422	21.6%	2.4%	76.1%
Minority	30	56.7%	3.3%	40.0%
Total	452	23.9%	2.4%	73.7%

Again, when the question is reversed and Nebraska's lawyers were asked about the effect the race or ethnicity of the victim has on a prosecutor's willingness to make a favorable plea agreement, almost 80% of white Bar members said that the race of the victim makes no difference. In contrast, 46.4% of the minority Bar members who responded to the question felt that the race or ethnicity of the victim did not affect the prosecutor's decision.

Table 2-26: Prosecutors Are More Likely to Make Favorable Plea Offers When the Victims Are:

	Number	White Victim	Minority Victim	No Difference
White	420	7.6%	12.9%	79.5%
Minority	28	21.4%	32.1%	46.4%
Total	448	8.5%	14.1%	77.5%

Finally, the Task Force was interested in understanding perceptions regarding pretrial diversion. As previously mentioned, pretrial diversion is alternative resolution offered to eligible offenders in lieu of adjudication. Pretrial diversion is based on the belief that not all cases are best handled through a formal adjudication process and as an alternative to formal processing, diversion can provide appropriate methods of treating offenders charged with less serious offenses (Nebraska Crime Commission Diversion Task Force 2002).

When the Task Force asked court employees and Bar members about diversion opportunities offered to juveniles and adults charged with crimes in the state of Nebraska, 95.7% of court personnel and 83.1% of white Bar members disagreed or strongly disagreed with the assertion that prosecutors are less likely to offer diversion to minority defendants. Conversely, 57.9% of minority court personnel and 43.3% of minority Bar members responding disagreed or strongly disagreed with the statement.

Table 2-27: Prosecutors Are Less Likely to Offer Diversion to Minority Defendants

Court Personnel	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	162	0.6%	3.7%	59.9%	35.8%
Minority	19	21.1%	21.1%	42.1%	15.8%
Total	181	2.8%	5.5%	58.0%	33.7%

Bar Members	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	366	2.7%	14.2%	59.3%	23.8%
Minority	30	6.7%	50.0%	33.3%	10.0%
Total	396	3.0%	16.9%	57.3%	22.7%

Judges

Judges have discretion in a number of areas related to each case, including, but not limited to, setting a bond amount, overseeing the jury selection process, determining the admissibility of evidence, accepting plea agreements, and sentencing. In addition, the judge can play an important role in creating a welcoming court environment for lawyers, court personnel, and those members of the public who find themselves participating in a court proceeding. In 1994, the state's judges were provided the opportunity to participate in a program highlighting multicultural awareness.

The Task Force asked court employees and Bar members to respond to a series of statements and questions regarding the behavior of judges. For example, respondents were asked whether judges are always, often, sometimes, seldom, or never more abrupt with minority counsel than with white counsel. Just less than 6% of white court personnel responding indicated that judges are always, often, or sometimes more abrupt with minority counsel. Conversely, over 28% of minority court employees responded that judges are always, often, or sometimes more abrupt with minority counsel than they are with white counsel.

Overall, a majority of both white (94.1%) and minority (71.4%) court personnel and white (94.2%) and minority (58.0%) members of the Nebraska State Bar Association responded that, generally speaking, judges are no more or less abrupt with minority lawyers than they are with white lawyers. A similar trend appears when Bar respondents are delineated by race and ethnicity. Whereas 5.8% of white Bar members responded that judges are always, often, or sometimes more abrupt with minority counsel than with white counsel, 42.0% of minority Bar members responded that judges are more abrupt with them than they are with white counsel.

Table 2-28: Judges Are More Abrupt With Minority Counsel Than They Are With White Counsel

Court Personnel	Number	Always	Often	Sometimes	Seldom	Never
White	169	0.0%	0.6%	5.3%	14.8%	79.3%
Minority	21	0.0%	4.8%	23.8%	9.5%	61.9%
Total	190	0.0%	1.1%	7.4%	14.2%	77.4%
Bar Members	**Number**	**Always**	**Often**	**Sometimes**	**Seldom**	**Never**
White	414	0.5%	1.2%	4.1%	27.3%	66.9%
Minority	31	12.9%	9.7%	19.4%	16.1%	41.9%
Total	445	1.3%	1.8%	5.2%	26.5%	65.2%

Further, the Task Force inquired as to judges' general attitudes toward defendants or litigants and their likelihood to base these attitudes on minority stereotypes. Almost 90% of white court personnel believe that judges seldom or never base their evaluations on minority stereotypes. A smaller percentage of minority court employees reported the same, with 59.1% responding that judges seldom or never use stereotypes in evaluating court participants.

Bar members were not so optimistic about the evaluations made by judges. Again, minority Bar members were more likely to conclude that judges act differently toward racial and ethnic minorities. Less than half of minority Bar respondents (43.3%) reported that judges seldom or never base their evaluations of defendants' or litigants' cases on minority stereotypes, whereas a much greater percentage of white members of the Nebraska State Bar Association (72.4%) made the same claim. It is important to note, however, the level of agreement among white and minority court personnel and Bar members on this subject. Almost 15% (14.9%) of all court personnel responding to the survey and almost one-third of all respondents (30.3%), including both white and minority Bar members, believe that judges base their evaluations on minority stereotypes.

Table 2-29: Judges Base Their Evaluations of a Defendant's or Litigant's Case on Minority Stereotypes

Court Personnel	Number	Always	Often	Sometimes	Seldom	Never
White	180	0.6%	0.6%	10.6%	17.8%	70.6%
Minority	22	0.0%	9.1%	31.8%	22.7%	36.4%
Total	202	0.5%	1.5%	12.9%	18.3%	66.8%
Bar Members	**Number**	**Always**	**Often**	**Sometimes**	**Seldom**	**Never**
White	531	0.6%	4.1%	23.0%	34.9%	37.5%
Minority	30	3.3%	10.0%	43.3%	30.0%	13.3%
Total	561	0.7%	4.5%	24.1%	34.4%	36.2%

When asked about specific aspects of judicial conduct, similar disparities in responses appeared when considering the race or ethnicity of the respondent. For instance, over three-quarters of white court personnel and almost 60% of white Bar members responded that judges always or often release minority defendants on their own recognizance as often as they do white defendants accused of equally serious crimes. A substantially smaller percentage of minority court personnel (40.9%) and 18.1% of minority Bar members agreed with the same statement.

Table 2-30: Judges Release Minority Defendants on Their Own Recognizance as Often as They Do White Defendants Accused of Equally Serious Crimes

Court Personnel	Number	Always	Often	Sometimes	Seldom	Never
White	174	48.3%	28.7%	14.4%	4.0%	4.6%
Minority	22	27.3%	13.6%	18.2%	27.3%	13.6%
Total	196	45.9%	27.0%	14.8%	6.6%	5.6%
Bar Members	**Number**	**Always**	**Often**	**Sometimes**	**Seldom**	**Never**
White	325	21.5%	37.5%	19.7%	17.2%	4.0%
Minority	22	4.5%	13.6%	9.1%	54.5%	18.2%
Total	347	20.5%	36.0%	19.0%	19.6%	4.9%

Minority court personnel and minority Bar members were not the only persons who informed the Task Force of the perception that minorities are held to different bond standards. These perceptions were also voiced in public hearings, in focus groups with minority lawyers, and in written testimony. At a public hearing in the western half of the state, one Hispanic man asserted that Latinos receive excessive bond amounts.

> One of the things that I'm really concerned with here in [county name] is bonds and bonds with the court system. It seems that frequently Latinos will get picked up for crimes…and are getting bonded out…of jail with really… excessively high bonds. And comparing it to crimes that are committed by Anglos that live in the community and the bonds are much, much less.

Several other Hispanic and black Nebraskans spoke about the issue of excessive bonds. The issues facing Hispanics appear somewhat different than those facing black Nebraskans, however. One lifetime resident of Nebraska and veteran of the United States armed forces with experience in the court system explained in written testimony that bond amounts are unnecessarily high for Hispanics due to the perception that they are not from "here" and are likely to flee to another country.

> The county [attorney] asked the court that bond be denied because I would flee to the nation of Mexico….[Do] white Europeans get denied bond because they will flee to Europe? Do Italians get denied bond because they will flee to Italy or France or Spain or Russia or Germany?

Several witnesses at a public hearing in Macy, Nebraska, located on the Omaha reservation, gave testimony concerning the high bond amounts set by surrounding jurisdictions due to fears that Native American defendants will fail to appear. While the Winnebago Nation has an extradition treaty with the state of Nebraska, the Omaha Nation does not currently have an extradition arrangement, prompting courts in the region, including those across the border in Iowa, to set bond amounts high enough to prevent pretrial release. One person testified that these high bond amounts affect the likelihood of a person pleading guilty instead of going through a criminal trial.

> I have had cousins [and] an aunt placed in Dakota County jail because they assumed they lived here on an Omaha reservation; and that may be the whole situation right there. They may be saying, basically, "well, I can't get you back; so I am going to put a bond on you to make sure you come back," but yet the guy that came before them had two more charges and was allowed to go home because he lived in Dakota County. What's the difference?.... The point is that

> they put that fear into our people here to the point where they are scared and some of them even plead guilty to charges which they probably didn't have enough evidence on to begin with just to get the matter over with.

Others at the same public hearing expressed similar concerns. One tribal leader testified that courts in local jurisdictions near the Omaha reservation set exorbitantly high bonds for relatively minor offenses on the premise that the Omaha tribe has avoided entering into an extradition treaty.

> What really is wrong… is that the [local] court stated to the newspapers that… they would try to work out [an] extradition agreement with the Omaha tribe. It is not true. It is an outright lie. They never have tried to work with the Omaha tribe to get extradition agreements.

Witnesses at public hearings around the state also discussed the treatment of witnesses. Those testifying mentioned that minority witnesses are not taken as seriously by judges and juries. The following table highlights further attitude differences among white and minority court personnel and Bar members. White court personnel were substantially less likely to believe that judges find minority lay witnesses less credible than white witnesses. Minority court personnel and minority members of the Nebraska State Bar Association were substantially more likely to respond that judges always or sometimes devalue the credibility of minority lay witnesses.

Table 2-31: Judges Find the Testimony of White Lay Witnesses More Credible Than Minority Lay Witnesses

Court Personnel	Number	Always	Often	Sometimes	Seldom	Never
White	147	0.0%	0.7%	9.5%	12.9%	76.9%
Minority	18	11.1%	16.7%	16.7%	27.8%	27.8%
Total	165	1.2%	2.4%	10.3%	14.5%	71.5%
Bar Members	**Number**	**Always**	**Often**	**Sometimes**	**Seldom**	**Never**
White	404	0.5%	6.2%	20.0%	30.2%	43.1%
Minority	25	16.0%	16.0%	28.0%	16.0%	24.0%
Total	429	1.4%	6.8%	20.5%	29.4%	42.0%

A similar trend exists regarding expert witnesses. Again, minority court personnel and minority Bar members are more likely to respond that judges find white expert witnesses more credible than do white court personnel and Bar members responding to the same question.

Table 2-32: Judges Find the Testimony of White Expert Witnesses More Credible Than Minority Expert Witnesses

Court Personnel	Number	Always	Often	Sometimes	Seldom	Never
White	143	0.0%	0.7%	4.2%	14.0%	81.1%
Minority	17	0.0%	17.6%	23.5%	11.8%	47.1%
Total	160	0.0%	2.5%	6.3%	13.8%	77.5%
Bar Members	**Number**	**Always**	**Often**	**Sometimes**	**Seldom**	**Never**
White	314	0.6%	4.8%	10.5%	28.3%	55.7%
Minority	20	15.0%	10.0%	40.0%	10.0%	25.0%
Total	334	1.5%	5.1%	12.3%	27.2%	53.9%

Finally, both court employees and Nebraska State Bar Association members were asked about the judges' conduct in deciding cases and prescribing penalties. Again, minority respondents were more likely than their white counterparts to believe that judges are only sometimes or seldom fair in deciding cases. Over 90% (93.1%) of white court personnel and 84.1% of white Bar members reported that judges are always or often fair in deciding cases. A smaller majority (70.0%) of minority court personnel and 62.9% of minority Bar members agree that judges always or often are fair when deciding cases.

Table 2-33: Judges Are Honest and Fair in Deciding Cases

Court Personnel	Number	Always	Often	Sometimes	Seldom	Never
White	232	53.9%	39.2%	6.5%	0.4%	0.0%
Minority	30	40.0%	30.0%	26.7%	3.3%	0.0%
Total	262	52.3%	38.2%	8.8%	0.8%	0.0%
Bar Members	**Number**	**Always**	**Often**	**Sometimes**	**Seldom**	**Never**
White	638	20.1%	64.1%	13.6%	1.3%	0.9%
Minority	35	8.6%	54.3%	31.4%	5.7%	0.0%
Total	673	19.5%	63.6%	14.6%	1.5%	0.9%

When asked about the specific likelihood of a judge more readily accepting the sentencing recommendation of a prosecutor when the defendant is a minority, white and minority respondents differed substantially. Over 30% of minority court employees and just less than 30% of minority Bar members responded that judges always or often accept prosecutor recommendations when the defendant is a minority. By contrast, 1.3% of white court employees and 8.4% of white Bar members agreed that judges always or often side with the prosecutor.

Table 2-34: Judges Are More Likely to Accept the Sentencing Recommendation of the Prosecutor When the Defendant Is a Minority

Court Personnel	Number	Always	Often	Sometimes	Seldom	Never
White	152	0.0%	1.3%	7.9%	16.4%	74.3%
Minority	19	15.8%	15.8%	15.8%	21.1%	31.6%
Total	171	1.8%	2.9%	8.8%	17.0%	69.6%
Bar Members	**Number**	**Always**	**Often**	**Sometimes**	**Seldom**	**Never**
White	309	0.3%	8.1%	21.0%	31.7%	38.8%
Minority	21	14.3%	14.3%	28.6%	19.0%	23.8%
Total	330	1.2%	8.5%	21.5%	30.9%	37.9%

A similar relationship between race and ethnicity and opinions about judges' sentencing patterns was apparent. Whereas 3.0% of white court employees and 12.5% of minority court employees respond that judges always or often sentence white defendants more leniently than minority defendants convicted of the same offense, 12.5% of minority court employees respond that this always or often happens. A similar trend is apparent among Bar members. Whereas 11.4% of white Bar members feel that judges always or often sentence white and minority defendants unequally, 40.0% of minority Bar members reported believing that minority defendants did not receive the same sentence for the same offense.

Table 2-35: Judges Sentence White Defendants More Leniently than Minority Defendants Convicted of the Same Offense

Court Personnel	Number	Always	Often	Sometimes	Seldom	Never
White	197	0.5%	2.5%	5.6%	16.2%	75.1%
Minority	24	4.2%	8.3%	37.5%	12.5%	37.5%
Total	221	0.9%	3.2%	9.0%	15.8%	71.0%

Bar Members	Number	Always	Often	Sometimes	Seldom	Never
White	384	0.5%	10.9%	22.1%	32.0%	34.4%
Minority	25	12.0%	28.0%	32.0%	12.0%	16.0%
Total	409	1.2%	12.0%	22.7%	30.8%	33.3%

General Perceptions

Several other questions focused not on the specific state participants in the court, like the judge or prosecutor, but concerned respondents' overall perceptions about the fair administration of justice in the Nebraska court system. With these questions, as with those relative to judges and prosecutors, there exists a marked difference between the responses of white and minority Bar members and white and minority court employees. Nebraska's minority Bar members and minority court employees consistently found that court actions are more biased and that the environment of the court is less hospitable than did white members of the Bar and white court employees asked the same questions.

For instance, whereas 24.8% of white Bar members responding to the survey agreed or strongly agreed that whites receive better treatment from the courts than do racial and ethnic minorities, a substantially higher percentage of minority Bar respondents (62.8%) believed that whites receive better treatment than do minorities. It also is worth noting that 27.1% of all Bar respondents believed that whites receive better treatment from the courts than do minorities. These issues were also examined in a random, statewide sample of Nebraskans, as reported in the Access to Justice section of this report, where again minority respondents are much more likely to believe that whites receive better treatment than do minorities in Nebraska's courts.

Table 2-36: Whites Receive Better Treatment From the Courts Than Do Ethnic and Racial Minorities

Bar Members	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	677	3.7%	21.1%	54.8%	20.4%
Minority	43	20.9%	41.9%	32.6%	4.7%
Total	720	4.7%	22.4%	53.5%	19.4%

When specifically asked whether white or minority defendants are more likely to be found guilty, 68.4% of white Nebraska State Bar Association members reported that there was no difference in likelihood. Conversely, 31.4% of minority Bar members reported that there was no difference in likelihood of being found guilty. The other 68.6% concluded that minority defendants are more likely to be found guilty than white defendants.

Table 2-37: Defendants Are More Likely to be Found Guilty When They Are:

Bar Members	Number	White Defendant	Minority Defendant	No Difference
White	434	0.7%	30.9%	68.4%
Minority	35	0.0%	68.6%	31.4%
Total	469	0.6%	33.7%	65.7%

When asked about the degree to which problems related to bias in Nebraska's courts have changed over the past five years, 33.3% of white court personnel responded that no bias has existed in the court system over the past five years and 36.4% reported that there is less bias now than in the past five years. By contrast, 9.7% of minority court personnel reported that there is no bias in the courts and that there has not been any bias in the past five years. Another 32.3% believed that there is less bias now than five years ago. Few respondents of either group responded that there was more bias than five years ago.

Table 2-38: Overall Perception of Bias Against Minorities in the Nebraska Justice System Over the Past 5 Years

Court Personnel	Number	Never has been, now or in the past 5 years	Less bias now than in the past 5 years	More racial bias now than in the past 5 years	Same amount of bias now as in the past 5 years
White	321	33.3%	36.4%	2.2%	28.0%
Minority	31	9.7%	32.3%	6.5%	51.6%
Total	352	31.3%	36.1%	2.6%	30.1%

Bar Members	Number	Never has been, now or in the past 5 years	Less bias now than in the past 5 years	More racial bias now than in the past 5 years	Same amount of bias now as in the past 5 years
White	755	11.4%	54.2%	2.0%	32.5%
Minority	44	6.8%	36.4%	9.1%	47.7%
Total	799	11.1%	53.2%	2.4%	33.3%

Among Bar members responding to the "last five years" question, trends similar to those of court employees appeared. Few respondents, minority or white, felt there was never bias in Nebraska's courts, now or in the past five years. Nor did many respondents believe that there is more racial bias now than in the past five years. It should be noted that although the percentages were comparatively low, a larger percentage of both minority court employees and Bar members reported an increased bias over that time span. Overall, this finding suggests that although a small percentage of respondents feel the court system is failing to address biases, the vast majority of respondents, white and minority, feel that no bias exists or that the bias that does exist is no worse now than it was five years ago.

Juvenile Justice

Based on statements from lawyers, law students, and members of the public who provided public or focus group testimony, it is clear that minority Nebraskans perceive that juveniles are treated differently on the basis of their race or ethnicity. As a participant in the Lincoln public hearing stated,

"White people are seen as kids, kids who make a mistake, but people of color are seen as guilty right off the bat."

At public hearings several parents spoke of their concern that juvenile courts do not treat families and children fairly. One individual contended that detention may not be an effective solution to juvenile crime.

> [A juvenile detention facility]…is like sending somebody to boarding school where everybody that was sent to boarding school was having problems at home. You're sending your child to get into more problems.

Another topic of interest among parents at several public hearings concerned whether juvenile diversion services are equally offered to minorities and whites. One person described a potential systemic bias in the application of diversion opportunities, namely the lack of services for juveniles and their families when the offender does not speak English.

> In the past few years,…[there has been] a great influx of people in [the] area, where the parents are primarily Spanish-speaking, kids get in trouble, there are not a great number of services that can really deal with the families, although, I think there is a greater family bond there, and the family -- the parents really do try to make sure that their kids get on the straight and narrow, but it is difficult.

Others mentioned the need for services specific to drug and alcohol treatment for minor offenders. One woman from a diverse community, who has worked in the chemical dependency unit of a treatment facility for the past eight years, noted that very few of those admitted were minorities.

> I worked in the chemical dependency unit for adolescents. It's residential. I see the kids that come in that get the opportunity to go through drug treatment instead of jail…. I've seen four black males in that place. I've seen two Hispanics, one Laotian, a few Asian—I couldn't give you the specs on it, but I – and that's out of 357 kids in those eight years that have come through those doors.

Discussion

Through a careful examination of arrest and incarceration data from both state and federal agencies, the Task Force concludes that members of racial and ethnic minorities are disproportionately charged, convicted, and incarcerated in Nebraska (and elsewhere) compared to their white counterparts. While the Task Force does not know the reason(s) for this, the pattern of disproportionate minority arrest and incarceration does not necessarily demonstrate whether Nebraska's justice system discriminates against minorities. Serious concerns, however, are raised about a system that should be blind to race and ethnicity.

Nebraska arrest rates are higher than national rates and those found regionally, but the incarceration rates for both adults and juveniles are not. In fact, Nebraska's incarceration rates are noticeably lower in some cases than those of other states in the region. Nebraska arrests a disproportionately high number of racial and ethnic minorities compared to their population in the state. These trends are substantially greater than rates found nationally, even as they are only somewhat exaggerated regionally. Additionally, there exists credible evidence that minorities are disproportionately incarcerated in Nebraska correctional facilities. These findings are consistent with other states in the region and national trends.

However, unlike the death penalty study commissioned by the Nebraska Legislature in 2000, which intensively examined a small number of crimes over a 27-year period, the Task Force examined tens of thousands of cases over a three-year period (Baldus et al., The Disposition of Nebraska Capital and Non-Capital Homicide Cases (1973-1999) 2001). Thus, the Task Force researched outcomes, namely the likelihood of arrest, prosecution, and incarceration, instead of seeking to explain the circumstances specific to each case that could have mitigated these outcomes. One reason the Task Force chose not to undertake a more intensive study, along the lines of the death penalty study, was data limitations. The State of Nebraska currently does not collect and maintain consistently the data necessary to do an intensive, individual-level analysis. Until the state's relevant law enforcement and court entities begin working together to create an integrated system for maintaining criminal justice data, a system-wide, individual-level analysis of the Nebraska courts is virtually impossible.

The court system's individual participants must be better trained to understand how the decisions they make affect the equitable administration of justice in the state of Nebraska, and the state must do a much better job of collecting and maintaining data that will allow for continuous scrutiny of these issues. Prosecutors, judges, public defenders and other participants in the criminal court system must measure their actions and understand their role in encouraging equal treatment under the law. In addition, the Task Force strongly encourages the development of accessible data that will allow a more sophisticated examination of the idiosyncratic application of justice. Perhaps then, the state will be in a better position to isolate the specific causes for those concerns enumerated here.

Given the overrepresentation of minorities arrested and incarcerated in Nebraska, an intensive study of the kind suggested above is imperative. For as a society that strives to be blind to issues of race and ethnicity, the disparities witnessed in this report (regardless of their cause) suggest significant reason for concern by fair-minded people.

Findings

Criminal

1. In Nebraska and elsewhere, minorities are disproportionately arrested in relationship to their percentage in the general population and compared to their white counterparts.

2. In Nebraska and elsewhere, minorities are disproportionately incarcerated in relationship to their percentage in the general population and compared to their white counterparts.

3. In Nebraska, the disparity between minority and white narrows from arrests to incarceration so that Nebraska incarcerates adult minorities at about the same rate as surrounding states.

4. Nebraska law enforcement agencies arrest blacks at a disproportionately higher rate than is found nationally or in any of the states in Nebraska's region.

5. Nebraska's county and district courts do not collect and maintain sufficient computerized demographic data to allow for statistical analysis of racial and ethnic minorities in the court system.

6. Nebraska does not maintain a database to study the discretion of Nebraska's prosecutors as it relates to race and ethnicity.

7. Over half of Nebraska's counties have no public defender.

8. Nebraska's minorities are substantially more likely than whites to use a public defender or assigned counsel.

9. Not all Nebraska counties offer diversion and, among those that do provide diversion, these services vary.

10. Few diversion programs keep records of race and ethnicity.

11. There exists inconsistent and inadequate recordkeeping of diversion programs and no centralized database to collect information on those offered diversion.

12. Nebraska's law enforcement agencies have no established policy for recording race and ethnicity.

Juvenile

1. Minority youth are disproportionately detained in the state of Nebraska, regionally, and nationally in relationship to their percentage in the general population and compared to their white counterparts.

2. Minority youth are disproportionately placed in out-of-home placement in the state of Nebraska in relationship to their percentage in the general population and compared to the white counterparts.

3. Due to a number of factors, including those related to language and resource barriers, minority youth are less likely to participate in juvenile diversion services.

4. Not all Nebraska counties offer diversion and, among those that do provide juvenile diversion, these services vary.

5. Few juvenile diversion programs keep records of race and ethnicity.

Perceptions

1. There exists a perception that juvenile diversion programs are not as available for minority youth as they are for white youth.

2. Minority and white Nebraska State Bar Association members and court personnel have markedly different perceptions regarding the treatment of racial and ethnic minorities by prosecutors and judges and in the overall court environment.

3. A substantial number of Nebraska State Bar Association members and court personnel believe that minority defendants are more likely to be charged, convicted, and sentenced to longer terms than white defendants.

4. Minority Nebraska State Bar Association members are more likely than their white counterparts to believe that judges are more abrupt with minority counsel than with white counsel.

5. A substantial number of Nebraska State Bar Association members are more likely to believe that whites receive better treatment from the courts than do minorities.

6. Minority Nebraska State Bar Association members and court personnel are more likely than their white counterparts to believe that bias in the Nebraska justice system has remained the same or gotten worse over the past five years.

7. A substantial number of both white and minority court personnel and Nebraska State Bar Association members agreed that minorities receive different, potentially discriminatory, treatment in Nebraska's courts; however, most Bar members and court personnel believe that Nebraska's justice system treats minorities fairly.

Recommendations

Criminal

1. The Nebraska Supreme Court should adopt policies that maximize the use of the necessary demographic data in court and probation records systems so that the delivery of services provided by the courts and probation can be analyzed to determine whether there are any effects on the delivery of those services caused by race or ethnicity.

2. To the maximum extent possible, automated systems operating in law enforcement, prosecution, courts, probation, and corrections should be designed so that data can be shared with other systems. In places where that integration of automated systems is not yet possible, the prosecutor should be required to prepare a "criminal cover sheet" for all county and district court criminal cases. These cover sheets should be standardized to include such information as the age, race, and ethnicity of the defendant, and the original charge or charges.

3. The Nebraska Supreme Court should periodically direct an analysis of the services provided by the courts of this state and by probation (such as setting of bond, sentencing, probation revocations, etc.) to see if there are any effects on the delivery of those services caused by race or ethnicity.

4. An appropriate commission or task force should be created to investigate the disproportionately high minority arrest figures among Nebraska's law enforcement agencies. In addition, Nebraska law enforcement agencies (police, sheriff, state patrol) under the leadership of the Nebraska Crime Commission or some other suitable state agency should make a concerted and sustained effort to determine whether race or ethnicity plays an improper role in arrests, and, if so, take specific and concrete action to address the matter.

5. The Administrative Office of the Courts should coordinate the collection of data, educate court participants, and continue to research areas of potential bias in the court, in order to create continuous oversight of the Nebraska court system.

6. Nebraska should adopt and enforce mandatory standards for the operation of county indigent defense systems that comply with the American Bar Association's "Ten Principles of a Public Defense Delivery System."

7. Nebraska should investigate the advisability of fully implementing a system based not on monetary bond but on conditions of pretrial release that would reasonably assure the appearance of the defendant and safety of the community.

8. The Nebraska Legislature should establish guidelines to ensure equal access to adult diversion programs and to assure the confidentiality of information concerning participants in diversion programs.

Juvenile

1. Nebraska should continue efforts to identify and eliminate the barriers that lead to disproportionately high minority youth arrests and incarceration relative to their percentage in the population and compared to their white counterparts.

2. The Nebraska Legislature should establish guidelines to ensure equal access to juvenile diversion programs and to assure the confidentiality of information concerning participants in diversion programs.

3. Nebraska should continue efforts to identify and reduce the barriers to full and equal access to juvenile diversion.

Perception

1. The Nebraska Supreme Court and the Nebraska State Bar Association should develop and administer training to improve multicultural competence and recognition of differences for judges and all other court personnel. In addition, other agencies not under the management or control of the Nebraska Supreme Court should develop and conduct similar training. These agencies would include, but not be limited to, public defenders, prosecutors, and law enforcement agencies.

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Chapter 3: Court Personnel

The Minority and Justice Task Force set out to assess the demographic profile of employees in the Nebraska state court system in an effort to understand to what extent court staffs reflect the racial and ethnic makeup of the community in which they live and work. The question was whether racial and ethnic minorities are underrepresented, as compared to their percentage in the population, among county and district court employees and throughout the state's judicial infrastructure. While underrepresentation does not necessarily demonstrate systemic or purposeful bias on the part of the state's courts, a court community that does not reflect the racial and ethnic composition in the community may create the impression that the state's courts are an unwelcome, even hostile, environment for minorities and can perpetuate a distrust of the legal system (Idaho Justice System Report 1996; Report of the Oregon Supreme Court Task Force on Racial/Ethnic Issues in the Judicial System 1994). Thus, the Task Force views the following analysis of the diversity of the judiciary and personnel employed by the state's courts as vital to a comprehensive study of the Nebraska court system.

The data for this section were collected from many different sources, most notably the Nebraska Administrative Office of the Courts. For comparison purposes employment data from the United States District Court for the District of Nebraska was also examined (the Nebraska federal court). The Nebraska Administrative Office of the Courts collected demographic information from each state judicial employee, including judges and other employees of the state justice system. Since there is no central administrative unit for the state's district courts, personnel data from these courts were collected from each of the 93 Nebraska district court clerks.

The information discussed throughout this section is better understood when put in context with the state's racial and ethnic makeup. Nebraska's white majority represents 87.3% of the state's population. Blacks are 4.0%, Asian or Pacific Islanders are 1.3%, and Native Americans are 0.9% of Nebraska's population. Those of Hispanic descent, the only ethnicity prominently discussed in this study, represent 5.5% of the state's citizenry (2000 U.S. Census). These percentages vary by county. Table 3-1 shows the 13 most diverse counties.

Table 3-1: Nebraska Counties With at Least 10% Minority Population

	Population	White	Black	Native American	Asian	Hispanic
Thurston	7,094	45.5%	0.2%	52.0%	0.1%	2.4%
Dakota	20,347	70.9%	0.6%	1.9%	3.1%	22.6%
Dawson	24,432	72.8%	0.3%	0.7%	0.7%	25.4%
Colfax	10,423	73.0%	0.1%	0.2%	0.2%	26.2%
Douglas	465,683	78.2%	11.5%	0.6%	1.7%	6.7%
Scotts Bluff	36,617	79.7%	0.3%	1.9%	0.6%	17.2%
Hall	53,304	83.7%	0.4%	0.3%	1.1%	14.0%
Sarpy	125,836	87.1%	4.4%	0.4%	1.9%	4.4%
Box Butte	11,844	87.7%	0.4%	2.7%	0.5%	7.6%
Sheridan	5,997	87.6%	0.1%	9.2%	0.1%	1.5%
Madison	35,549	88.3%	0.9%	1.2%	0.4%	8.6%
Morrill	5,363	88.6%	0.1%	0.7%	0.2%	10.1%
Lancaster	252,090	88.7%	2.8%	0.6%	2.9%	3.4%

Source: 2000 U.S. Census.

Nebraska Judicial System

The Constitution of the State of Nebraska distributes the judicial power of the state among the Supreme Court, Court of Appeals, district courts, separate juvenile courts and county courts. All state courts operate under the administrative direction of the Supreme Court. In addition to the courts created by the Constitution, included in the Nebraska judicial system is a statewide Workers' Compensation Court. Operation of the statewide probation system is also the responsibility of the Nebraska Supreme Court.

While federal courts are outside the purview of a state task force, the Nebraska federal court is included in this study because it draws from the same employee base and serves the citizens of the state of Nebraska in much the same way as the county and district courts. The tribal courts were not included in this study due to the complexity of sovereignty and jurisdictional issues.

Nebraska State-Administered Courts and Probation Offices

The Nebraska Supreme Court, the Nebraska Court of Appeals, the Nebraska county courts, and Nebraska's probation employees are, for administrative purposes, served by an entity known as the Administrative Office of the Courts. For the purpose of evaluating court personnel these courts and the probation system are considered as a unitary system. As the following tables illustrate, of the 666 state court employees, minorities comprise 5.4% of personnel (see Tables 3-2 through 3-6). Among the 385 probation employees, 3.1% identify themselves a racial or ethnic minority (Table 3-7).

Table 3-2: Nebraska Judges

	Total	Minority
Supreme Court Judges	7	0
Court of Appeals Judges	6	0
District Court Judges	55	0
Separate Juvenile Court Judges	10	2
County Court Judges	59	2
Workers' Compensation Judges	7	0
	144	4 (2.8%)

Table 3-3: Supreme Court and Court of Appeals Offices

	Total	Minority		Total	Minority
Clerk of Supreme Court	1	0	Administrative Assistant	9	0
Staff Attorney	2	0	Assistant Staff Attorney	1	0
Reporter of Decisions	1	0	Law Clerk	26	0
Counsel for Discipline	1	0	Bailiff	2	1
Assistant Counsel for Discipline	2	0	Assistant Librarian	2	0
Supreme Court Librarian	1	0	Journal Clerk	2	0
Dispute Resolution Coordinator	1	0	Word Processing Assistant	1	0
Assistant Clerk of Supreme Court	1	0	Editorial Assistant	1	0
Assistant Reporter	2	0	Publications Coordinator	1	0
				57	1 (1.8%)

Table 3-4: Administrative Office of the Courts

	Total	Minority
Court Administrator	1	0
Probation Administrator	1	0
Associate Administrator	4	0
Deputy Probation Administrator	2	0
Financial Officer	1	0
Public Information Officer	1	0
Network Administrator	1	0
Computer Support Technician	1	0
Payroll Assistant	1	1
Staff Assistant	1	0
Court Application Analyst	9	1
Information Systems Specialist	1	0
Interstate Compact Admin. Asst.	1	0
Financial Administrative Assistant	1	0
Administrative Secretary	2.5	0
Receptionist	2	0
	30.5	2 (6.7%)

Table 3-5: County Court Employees

	Total	Minority
Judicial Administrator	3	0
Clerk Magistrate IV	2	0
Clerk Magistrate III	10	0
Clerk Magistrate II	13	0
Assistant Judicial Administrator	0	0
Clerk Magistrate I	53	0
Division Manager	8	2
Assis tant Clerk II	16	0
Assistant Clerk I	41	0
Accounting Clerk	11	2
Administrative Secretary	4	0
Judicial Assistant	13	1
Court Stenographer	12	1
Cashier	11	1
Bailiff/ Courtroom Clerk	17	5
Records Clerk III	3	0
Registrar	6	0
Records Clerk	160	17
Clerk of Court (part time)	13	0
	396	39 (9.8%)

Table 3-6: Court Reporters

	Total	Minority
Official Court Reporter	63	0
	63	0 (0.0%)

Note: Official court reporters are state employees who work in the district courts. Their salaries are paid by the Supreme Court.

Table 3-7: Probation Office Employees

Traditional Probation	Total	Minority
Supervisor	3	0
Office Manager	15	0
Chief Probation Officer I	8	0
Chief Probation Officer II	6	0
Chief Probation Officer III	1	0
Deputy Chief Probation Officer	12	0
Case Manager	10	1
Senior Probation Officer	92	5
Probation Officer	51	1
Probation Officer Trainee	24	0
Senior Secretary	37	3
Secretary I	29	0
Secretary II	18	0
Drug Technician	11	1
	317	11 (3.5%)

Intensive Supervision Probation	Total	Minority
ISP* Supervisor	1	0
ISP Coordinator	6	0
ISP Senior Probation Officer	12	1
ISP Probation Officer	14	0
ISP Trainee	6	0
ISP Case Manager	2	0
ISP Senior Secretary	4	0
ISP Secretary I	6	0
ISP Secretary II	1	0
	52	1 (1.9%)

Grants	Total	Minority
Drug Court Coordinator	4	0
Senior Probation Officer	3	0
Probation Officer	4	0
Trainee	2	0
Drug Technician	2	0
Secretary I	1	0
	16	0 (0.0%)

Cumulative Total	385	12 (3.1%)

*ISP stands for Intensive Supervision Probation.

Nebraska Separate Juvenile Courts

Nebraska has three separate juvenile courts located in Douglas, Lancaster, and Sarpy Counties. Separate juvenile courts were introduced in Lancaster County. Additional separate juvenile courts have since been created in Douglas and Sarpy Counties. These counties were chosen due to the high number of juvenile-related cases. In those counties without a separate juvenile court, juvenile cases are heard in the county courts.

Separate juvenile courts are courts of record for matters involving neglected, dependent, and delinquent children. Separate juvenile courts also have jurisdiction in domestic relations cases where the care, support, or custody of minor children is an issue. Where concurrent jurisdiction applies, the county

attorney decides in which court to file the case. Cases involving individuals under age 18 that are filed in the district courts are filed under the criminal code and, therefore, are technically not juvenile cases. The three separate juvenile courts have the same jurisdiction and employ the same court procedures as the county courts acting as juvenile courts, although all employees other than the court reporter are county employees. Table 3-8 illustrates that racial and ethnic minorities comprise 11.4% of the separate juvenile courts' employees.

Table 3-8: Separate Juvenile Courts

	Total	Minority
Bailiffs	10	0
Court Reporters	10	0
Support Staff	15	4
	35	4 (11.4%)

Nebraska District Courts

District courts are trial courts of general jurisdiction and are organized into 12 judicial districts to serve all 93 counties of the state. Fifty-five district judges serve these judicial districts. The Nebraska court system has undergone two consolidations in the past three decades. The Nebraska district court system was originally consolidated from 93 district courts with separate and distinct personnel to 21 regional court districts in 1972. This consolidation sought to reduce the costs of maintaining judges and court staff in sparsely populated rural counties where few felony cases were adjudicated (Sittig 1984). This number was then reduced in 1992 to the 12 regional court districts that currently make up the Nebraska district court system. Each county has its own court within those 12 districts.

Individual counties, each with an elected district court clerk, hire district court staffs, all of whom are employed by the county and not the state. Conversely, county court employees are state employees. Thus, unlike the county courts, Nebraska's district court employees are not under the direction of the Administrative Office of the Courts. With no central administrator, data for these courts were much more difficult to collect. Four different letters requesting statistical information were sent directly to each of the 93 clerks of the Nebraska district courts in July, September, January, and March of 2001 and 2002. These four letters produced 35 responses from various Nebraska district court clerks around the state. All of the Nebraska district courts having not reported by the spring of 2002 were contacted by telephone during the week of May 27-31, 2002. Eventually, all district courts reported.

The Nebraska district courts have smaller caseloads and therefore tend to have somewhat fewer employees than the county courts. In 13 counties throughout the state, an employee of the district court also works part time in county court due to the small number of cases. In many of the state's less populated counties, there might not be a need to hold a jury trial in a given year. These counties need far fewer employees than the more populous counties and routinely "share" employees across both the district and county courts. Careful effort was made to collect information only on Nebraska district court employees; however, some county court employees may have been counted twice, due to this overlap in personnel. Table 3-9 compares the racial and ethnic diversity of employees in the state's county courts to those employed by Nebraska district courts. Most of the state's misdemeanor criminal cases and all traffic and municipal citations are handled at the county court level. All state felony trials are held in district court.

Table 3-9: County and District Court Employees

	County Court		District Court			County Court		District Court	
	Total	Minority	Total	Minority		Total	Minority	Total	Minority
Adams	8	0	6	0	Jefferson	2	0	3	0
Antelope	2	0	2	0	Johnson	1	0	2	0
Arthur	1	0	1	0	Kearney	2	0	2	0
Banner	1	0	3	0	Keith	4	0	3	1
Blaine	2	0	3	0	Keya Paha	1	0	2	0
Boone	1	0	2	0	Kimball	2	0	3	0
Box Butte	3	0	2	0	Knox	2	0	2	0
Boyd	1	0	2	0	Lancaster	47	5	24	1
Brown	2	0	3	0	Lincoln	11	0	7	0
Buffalo	8	0	10	0	Logan	1	0	1	1
Burt	2	0	2	0	Loup	1	0	1	0
Butler	2	0	2	0	Madison	8	0	4	0
Cass	6	0	4	0	McPherson	2	0	1	0
Cedar	3	0	2	0	Merrick	2	0	3	0
Chase	2	0	3	0	Morrill	2	0	3	0
Cherry	3	0	2	0	Nance	1	0	1	0
Cheyenne	3	0	3	0	Nemaha	2	0	1	0
Clay	1	0	3	0	Nuckolls	1	0	2	1
Colfax	3	0	2	0	Otoe	4	0	3	0
Cuming	2	0	2	0	Pawnee	2	0	3	0
Custer	3	0	2	0	Perkins	2	0	2	0
Dakota	6	0	4	0	Phelps	2	0	2	0
Dawes	3	0	3	0	Pierce	1	0	1	0
Dawson	7	3	4	0	Platte	7	0	5	0
Deuel	1	0	2	0	Polk	2	0	3	0
Dixon	2	0	2	0	Red Willow	3	0	3	0
Dodge	7	0	4	0	Richardson	3	0	2	0
Douglas	79	26	66	6	Rock	1	0	2	0
Dundy	1	0	2	0	Saline	3	0	3	0
Fillmore	2	0	2	0	Sarpy	20	1	19	1
Franklin	1	0	4	0	Saunders	4	0	4	0
Frontier	2	0	2	0	Scotts Bluff	9	4	6	2
Furnas	2	0	2	0	Seward	5	0	5	0
Gage	5	0	3	0	Sheridan	3	0	2	0
Garden	2	0	3	0	Sherman	1	0	3	0
Garfield	1	0	2	0	Sioux	1	0	1	0
Gosper	2	0	2	0	Stanton	2	0	2	0
Grant	1	0	2	0	Thayer	3	0	2	0
Greeley	2	0	4	0	Thomas	1	0	1	0
Hall	13	0	8	0	Thurston	2	0	2	0
Hamilton	3	0	3	0	Valley	1	0	2	0
Harlan	2	0	4	0	Washington	2	0	3	0
Hayes	0	0	2	0	Wayne	2	0	1	0
Hitchcock	1	0	2	0	Webster	2	0	2	0
Holt	3	0	3	0	Wheeler	2	0	1	0
Hooker	2	0	1	0	York	3	0	3	0
Howard	2	0	2	0		396	39 (9.8%)	352	13 (3.7%)

Nebraska Workers' Compensation Court

The Workers' Compensation Court is a part of the state court system, under the supervision of the Nebraska Supreme Court. However, the Workers' Compensation Court has its own administrative office separate from the Nebraska Administrative Office of the Courts and has separate personnel policies. Its personnel are employed by the state of Nebraska with expenditures appropriated by the state legislature.

Table 3-10: Workers' Compensation Court Employees

	Total	Minorities		Total	Minorities
Administrator	1	0	Independent Medical Examiner Rep.	1	0
Statistical Specialist	1	0	Rehabilitation Specialist	3	0
Applications Developer Lead	1	0	Clerk of the Court	1	0
Infrastructure Supp. Analyst Lead	1	0	Business Manager	1	0
Applications Developer Senior	1	0	Information Technology Manager	1	0
Attorney	3	1	Deputy Clerk	1	0
Mediation Coord./Legal Assistant	1	0	General Counsel	1	0
Public Information Officer	1	0	Public Information Manager	1	0
Public Information Specialist	1	0	Coverage-Claims/Voc. Rehab Mgr.	1	0
Public Information Technician	1	0	Judicial Assistant	3	0
Senior Computer Operator	1	0	Law Clerk	1	0
Computer Operator	1	0	Assistant Clerk	4	1
Auditor	1	0	Accounting Clerk	1	0
Compliance Examiner	2	0	Staff Assistant	4	0
Medical Services Specialist	1	0	Office Clerk	2	0
Compliance Program Assistant	1	0	Receptionist/ Secretary	2	0
				47	2 (4.3%)

United States District Court for the District of Nebraska

Employees of federal courts are not under the oversight of the Nebraska Supreme Court, Administrative Office of the Courts, or any state district court clerk. Instead, they are federal employees, subject to federal employment guidelines. While the Nebraska federal court has separate hiring and equal employment procedures, all courts in the state of Nebraska draw from the same employment base and have discretion to hire and fire court employees. Thus, an assessment of the hiring practices of the Nebraska federal court provides a point of comparison.

Table 3-11: Nebraska Federal Court Judges

Judges	Total	Minority
Chief U.S. District Judge	1	0
U.S. District Judge	3	0
Senior U.S. District Judge	2	0
U.S. Magistrate Judge	3	0
Bankruptcy Judge	1	0
	10	0 (0.0%)

Table 3-12: Nebraska Federal Court Personnel

	Total	Minority
Pretrial Services Office		
Chief Pretrial Services Officer	1	0
Administrative Specialist	1	0
Data Quality Analyst	1	0
Supervising Pretrial Services Officer	1	0
Pretrial Services Officer	7	0
Pretrial Services Assistant	2	0
	13	0 (0.0%)
Office of the Clerk		
Clerk of Court	1	0
Chief Deputy Clerk	1	0
Chief Information Officer	1	0
Assistant Systems Manager	1	0
Deputy Clerk	1	0
Courtroom Deputy Supervisor	1	0
Docket Clerk Supervisor	1	0
Automation Specialist	2	0
PC Systems Administrator	1	0
Help Desk/Software Trainer	1	0
Court Reporter	4	0
Financial Specialist	1	0
Financial Technician	1	0
Secretary to Clerk/Chief Deputy Clerk	1	1
Space/Facilities Manager	1	0
Human Resources Specialist	1	0
Property/Procurement Specialist	1	0
Administrative Assistant	1	0
Jury Administrator	1	0
Budget Analyst	1	0
Courtroom Deputy	8	0
Docket Clerk	11	3
Docket Clerk Specialist	1	0
	44	4 (9.1%)

	Total	Minority
Chambers Staff		
Secretary to Judge or Magistrate	9	0
Law Clerk	17	0
Pro Se Law Clerk	1	0
Total:	27	0 (0.0%)
Probation Offices		
Chief Probation Officer	1	0
Deputy Chief Probation Officer	1	0
Supervisor Presentence Unit	1	0
Data Quality Analyst	1	1
Systems Manager	1	0
Automation Specialist	1	0
Probation Officer	27	5
Budget Analyst	1	0
Personnel Specialist	1	1
Senior Probation Clerk	6	0
	41	7 (17.1%)
Bankruptcy Clerk's Office		
Clerk of Court	0 (vacant)	0
Chief Deputy Clerk	1	0
Deputy in Charge	1	0
Director, Information Services	1	0
Assistant Systems Manager	1	0
Case Administrator Supervisor	1	0
Network Admin/Programmer	1	0
Automation Support Specialist	1	0
Automation Specialist/Web Admin.	1	0
Budget Analyst	1	0
Operations Specialist	1	0
Property/Procurement Specialist	1	0
Training Specialist	1	0
Quality Assurance Analyst	1	0
Case Administrator	9	1
Intake Specialist	3	1
Courtroom Deputy	2	0
Relief Courtroom Deputy	1	0
	28	2 (7.1%)
Cumulative Total	163	13 (8.0%)

The Nebraska federal court is subject to various federal laws, policies, and procedures set forth by the Judicial Conference of the United States and the Administrative Office of the United States Courts. These include equal opportunity policies relating to employee recruitment, retention, and promotion. In addition to the federal guidelines, the Nebraska federal court instituted its own aspirational goal in July 2000 that within three years 20% of the court's staff and chambers' staff, excluding judicial officers, be drawn from underrepresented groups such as black, Hispanic, Asian or Pacific Islander, or Native American. Judicial officers were excluded from this goal because the President of the United States, with the consent of the Senate, and not the court, selects U.S. District Court judges. The Nebraska federal court reports that the 20% goal was used so as to mirror the population diversity in Omaha, the location of the court's largest facility. The clerk of the Nebraska federal court and respective agency heads monitor

this goal. Despite efforts to the contrary, as of the end of 2002, the Nebraska federal court reported little progress in reaching this goal.

As a result of the adoption of this goal, the Nebraska federal court has increased its efforts to recruit minority employees. These include expanding the pool of organizations to which announcements are sent, using word of mouth of current employees, and emphasizing bilingual and multicultural credentials. The judges receive periodic written status reports on the progress. Unlike the Nebraska federal court, the state court system has not set aspirational goals for diversity among its employees.

Court Personnel Diversity in Nebraska's Most Diverse Counties

According to the 2000 U.S. Census, 12.7% of Nebraska respondents identified themselves as a racial or ethnic minority. As the aforementioned tables illustrate, the percentage of minority representation of employees in the Nebraska county courts (5.4%), probation offices (3.1%), Nebraska district courts (3.1%), Nebraska federal court (8.0%), and workers' compensation courts (3.7%) is below Nebraska's minority population percentage.

Given the fact that minorities are concentrated in relatively few areas across the state, a statewide analysis may not accurately reflect the relationship between the overall population of the state and minority employment in the courts of the state. In order to take a more specific look at those counties with the highest minority populations, Table 3-13 reflects the demographic percentage of racial and ethnic minorities in the state's most diverse counties to their respective Nebraska district and county courts.

Table 3-13: Diversity of Courts in Nebraska Counties With at Least 10% Minority Population

	County Population		Court Diversity	
	White	Minority	District Courts	County Courts
Thurston	45.5%	54.5%	0.0% (0 of 2)	0.0% (0 of 2)
Dakota	70.9%	29.1%	0.0% (0 of 4)	0.0% (0 of 6)
Dawson	72.8%	27.2%	0.0% (0 of 4)	42.9% (3 of 7)
Colfax	73.0%	27.0%	0.0% (0 of 2)	0.0% (0 of 3)
Douglas	78.2%	21.8%	9.1% (6 of 66)	32.9% (26 of 79)
Scotts Bluff	79.7%	20.3%	33.3% (2 of 6)	44.4% (4 of 9)
Hall	83.7%	16.3%	0.0% (0 of 8)	0.0% (0 of 13)
Sarpy	87.1%	12.9%	5.3% (1 of 19)	5.0% (1 of 20)
Box Butte	87.7%	12.3%	0.0% (0 of 2)	0.0% (0 of 3)
Sheridan	87.6%	12.4%	0.0% (0 for 2)	0.0% (0 for 3)
Madison	88.3%	11.7%	0.0% (0 of 4)	0.0% (0 of 8)
Morrill	88.6%	11.4%	0.0% (0 of 3)	0.0% (0 of 2)
Lancaster	88.7%	11.3%	4.2% (1 of 24)	10.6% (5 of 47)

Source: 2000 U.S. Census.

With the exception of Scotts Bluff County (33.3% minority), the Nebraska district courts of Nebraska's most diverse counties do not have employee racial and ethnic diversity that reflects the demographics of the counties. Among the county courts of Nebraska's most diverse counties, three courts (Dawson 42.9%, Douglas 32.9%, and Scotts Bluff Counties 44.4%) have staff diversity that mirrors or exceeds their corresponding community's racial or ethnic makeup. While slightly below the percentage of diversity in the county, Lancaster County Court's staff closely mirrors that of the county. It is noteworthy that Thurston, Dakota, Colfax, Hall, Box Butte, Sheridan, Madison, and Morrill Counties

have no minority court personnel in either district or county court despite the fact they represent eight of Nebraska's most diverse counties. Specifically, Hall County, the fourth most populous in the state with almost 9,000 minority citizens, has no minority court employees in either court.

Stratification of Positions

The court employee data collected from both county and district courts suggests that minorities occupy lower-level positions in the courts. Therefore, it is important to look at the stratification within the court system. To examine this, positions in Nebraska's county courts and probation offices have been separated into hierarchical categories, including: Judicial, Administrative, Management, Judicial Support Staff, Administrative Support Staff, Automation Support Staff, and Support Staff.

Table 3-14: Levels of Positions in Nebraska's Courts*

State-Administered Courts	Total	Minority	Percent
Judicial	136	4	2.9%
Administrative	99	0	0.0%
Management	68	2	2.9%
Judicial Support Staff	99	0	0.0%
Administrative Support Staff	25	3	12.0%
Support Staff	239	27	11.3%
Total	666	36	5.4%

Workers' Comp. Court	Total	Minority	Percent
Judicial	7	0	0.0%
Administrative	23	1	4.3%
Management	7	0	0.0%
Judicial Support Staff	8	1	12.5%
Administrative Support Staff	1	0	0.0%
Support Staff	8	0	0.0%
Total	54	2	3.7%

Probation Offices	Total	Minority	Percent
Management	56	0	0.0%
Support Staff	329	12	3.6%
Total	385	12	3.1%

As Table 3-14 demonstrates, in the state-administered courts and probation offices, minority employees are primarily concentrated in various support staff positions with less autonomy and lower compensation. The vast majority of minority employees in the state-administered courts are support staff (77.2%).

In addition, a survey of Nebraska court personnel, discussed at length in the following pages, demonstrates that a smaller percentage of minority respondents (75.7%) are employed in full time positions than are their white counterparts (86.7%). Also, more minority respondents (16.2%) than whites (1.6%) are contract workers. Contract workers are almost exclusively interpreters (spoken and sign language).

Table 3-15: Employment Status

	Number	Full Time	Part Time	Contractor
White	383	86.9%	11.5%	1.6%
Minority	37	75.7%	8.1%	16.2%
Total	420	86.0%	11.2%	2.9%

Note: These data are from a survey of Nebraska court personnel.

Across virtually every level of employment, minorities are underrepresented in Nebraska's courts. Minorities are also more concentrated in support staff positions with little autonomy, less compensation, and are more likely to hold part time positions than are their white counterparts.

Nebraska's county court system, under the administration of the Nebraska Supreme Court and Administrative Office of the Courts, has achieved greater diversity among its court personnel than the state's district courts. County courts have one central administrative office, whereas each district court is managed by an elected official, a district court clerk, who answers to his or her constituents and not to the Nebraska Supreme Court. With no established policy to promote diversity, district court clerks have had less success creating a workplace that matches or seeks to match the racial and ethnic composition of the given community.

Hiring, Retention, and Promotion

To better understand the hiring, retention, and promotion practices and policies of Nebraska's district courts and the Administrative Office of the Courts, which administers the state's county court system, the Task Force surveyed almost 500 current Nebraska court employees and requested equal opportunity policies from the worker's compensation court, each of Nebraska's 93 district courts, and the Nebraska Supreme Court, which includes the Administrative Office of the Courts, Nebraska Court of Appeals, county courts, and probation offices.

While many states have undertaken an examination of the racial and ethnic makeup of the courts, few have specifically inquired as to the hiring practices, retention and development policies, and perceived advancement opportunities for minority employees. Addressing these issues may provide insight as to perceived and actual barriers to employment, retention, or advancement in Nebraska's court system. Additionally, by understanding these concerns, the Task Force may be able to help the courts create a more positive court environment for minority employees and perhaps create a more representative court system.

Research Methods and Data Limitations

The Minority and Justice Task Force sent surveys to each employee of Nebraska's county and district courts, the Nebraska Supreme Court, and Court of Appeals, as well as each employee of the Nebraska federal court. This includes permanent employees, such as court reporters, bailiffs, record clerks, etc. and contract workers, such as language interpreters. It did not include judges, who, as members of the Nebraska State Bar Association, were sent copies of the Bar survey. The personnel survey was developed by the Personnel Subcommittee of the Minority and Justice Task Force. It includes

many previously tested questions asked in either national surveys by the National Center for State Courts, American Bar Association, or other like institution, or state task forces and commissions studying racial and ethnic underrepresentation in the legal community. The survey had 54 questions, including nine requesting demographic data.

Each of the 1,267 surveys mailed March 15, 2002, included a self-addressed, stamped envelope. As of May 1, 2002, approximately 480 surveys had been returned. Another 14 were received in May, bringing the total return to 494. Thus, just over 37% of the population of county, district, and Nebraska federal court employees returned the surveys.

A 494-person survey of a population of 1,267 puts the margin of error at +/-3.5% for the entire sample. Since the vast majority of respondents are white, almost 92%, the margin of error for white respondents is basically the same as the margin of error for the entire sample, at +/-3.6%. The margin of error for minority respondents is substantially higher at +/-9.9%, despite the fact that 40 of 67 minority court employees returned the survey. This is because margin of error takes into account the raw number of population as well as the raw number of respondents. Thus, a handful of minority respondents could substantially affect the percentages, while an additional couple of white respondents would not affect the totals significantly.

A more complete discussion of the research methodology is found in Chapter 5, page 139.

Recruitment and Hiring Practices

One method to examine recruitment and hiring practices is to examine the ways by which individuals found their current positions. For instance, do whites primarily use networking or get recruited for their positions? Do minorities use similar "closed channels" or are their employment methods limited to more "open channels" such as answering advertisements or actively searching for employment? The survey results suggest that minority and white court personnel find their jobs through fairly similar means.

Table 3-17: Finding Current Position

	Number	Family	Friend	Networking	Advertisement	Recruited	Other*	Multiple
White	392	5.1%	17.9%	4.8%	24.0%	11.5%	20.2%	16.6%
Minority	39	0%	28.2%	7.7%	15.4%	12.8%	15.4%	20.5%
Total	431	4.6%	18.8%	5.1%	23.2%	11.6%	19.7%	16.9%

*Included in the other category are responses such as promoted, elected, and used career or job services.

The survey findings show that white respondents are more likely to respond to advertisements than minority respondents. Conversely, minority respondents are more likely than white respondents to use friends, networks, and multiple means in finding their current positions. These findings may suggest that attracting minority applicants takes a more creative approach than just advertising open positions in traditional forums. It should be noted that while percentage differences between white and minority respondents exist, these differences are within the margin of error.

In addition to better understanding the methods used by court personnel to find employment, the Task Force was interested in the efforts to recruit minority personnel. When asked if the court for which they work took specific steps to recruit minority employees, a majority of respondents to the survey did not know or were unaware of specific efforts to recruit minorities. Of those who were aware of hiring practices, 12.5% believed that their employer took serious steps to attract minority applicants.

Table 3-18: Court Recruitment Efforts

	Number	Yes, serious steps	Yes, but not serious steps	No, but it has been discussed	No	Don't know
White	326	12.6%	2.1%	1.8%	26.0%	57.4%
Minority	35	11.4%	17.1%	8.6%	17.1%	45.7%
Total	361	12.5%	3.6%	2.5%	25.2%	56.2%

The survey also inquired about employees' perception of hiring practices, specifically, applicant qualifications and employers' hiring preferences. The results indicate that a large discrepancy exists in how white and minority court personnel perceive the qualifications needed by minorities. The majority (53.8 %) of minority respondents believe that to be hired, minorities need to be better qualified than white applicants. Conversely, 3.0% of white respondents believe that minorities need better qualifications to be hired by the Nebraska court system. The differences in white and minority response are large enough to indicate that they are not a consequence of random error. Nevertheless, more than 90% of all respondents disagreed and 46.1% of minority respondents disagreed with the proposition that minorities need better qualifications than whites to be hired by Nebraska's courts. This difference is also outside the margin of error.

Table 3-19: To Be Hired, Minorities Need Better Qualifications Than Whites

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	204	1.0%	2.0%	49.0%	48.0%
Minority	26	26.9%	26.9%	19.2%	26.9%
Total	230	3.9%	4.8%	45.7%	45.7%

The survey also asked respondents about perceived reverse discrimination practices in the courts. In other words, personnel were asked whether minorities are given hiring preferences over better-qualified whites. Results show that over 20% (22.0%) of white respondents believe that minority job candidates receive preferential treatment. Only 13.0% of minority respondents agree with this proposition. These findings are within the margin of error. What is more striking is that minorities and whites are significantly divergent in their level of disagreement. While significantly more minorities strongly disagree (47.8%) rather than disagree (39.1%) that minorities are given hiring preferences over better-qualified whites, white personnel were significantly more likely to disagree (53.0%) rather than strongly disagree (25.0) with this statement. These results fall outside the margin of error, suggesting that these percentages demonstrate significant differences in minority and white respondents. Further analysis suggests that respondents in courts with no minority employees are more likely to hold the opinion that minorities are given hiring preference over better-qualified whites.

Table 3-20: Minorities Are Given Hiring Preference Over Better-Qualified Whites

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	168	7.1%	14.9%	53.0%	25.0%
Minority	23	4.3%	8.7%	39.1%	47.8%
Total	191	6.8%	14.1%	51.3%	27.7%

When completing the survey, several court employees took time to submit written comments in addition to answering the survey questions. A handful of court employees commented that their employer was trying too hard to hire minorities for court openings. For instance, one court employee stated that minorities are considered despite having few qualifications.

> I feel that our court goes to the extremes in hiring minorities. They are hired over more qualified white candidates. They have even lowered the requirements for a position in order to accommodate candidates from underrepresented groups.

Retention and Development

Court personnel also were asked about their current job satisfaction and practices leading to professional development and retention, specifically those related to access to networks that might benefit their careers, mentoring relationships, and assignment to advanced tasks. The following tables highlight factors that pertain to retention and development of court employees.

In Table 3-21, both white (92.2%) and minority (79.0%) respondents report that they are very satisfied or satisfied with their professional situation. Table 3-22 shows that while a significantly higher percentage of minority respondents believe they are assigned less complex tasks than their white counterparts, a high percentage of both white (91.5%) and minority (72.0%) respondents disagree or strongly disagree with the statement. Table 3-23 shows that both white and minority respondents have a similar view of the networks open to furthering their careers. Table 3-24 suggests a difference in the way white and minority respondents feel about the mentoring opportunities available to employees. Minority personnel (70.0%) were significantly more likely than whites (17.9%) to believe that whites have more networking opportunities. Finally, Table 3-25 suggests that this extends to opportunities for professional advancement. While the majority of both white and minority respondents believe opportunities exist for minority advancement, whites are significantly more likely to believe (96.0%) this than are minority court respondents (59.3%).

Table 3-21: Satisfaction With Professional Situation

	Number	Very Satisfied	Satisfied	Somewhat Satisfied	Dissatisfied
White	379	42.7%	47.5%	8.2%	1.6%
Minority	38	39.5%	39.5%	13.2%	7.9%
Total	417	42.4%	46.8%	8.6%	2.2%

Table 3-22: Minorities Tend To Be Assigned Less Complex Tasks

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	142	2.1%	6.3%	50.0%	41.5%
Minority	25	20.0%	8.0%	48.0%	24.0%
Total	167	4.8%	6.6%	49.7%	38.9%

Table 3-23: Satisfaction With Networks Important to Career

	Number	Very Satisfied	Satisfied	Somewhat Satisfied	Dissatisfied
White	360	17.5%	53.1%	22.5%	6.9%
Minority	35	11.4%	45.7%	34.3%	8.6%
Total	395	17.0%	52.4%	23.5%	7.1%

Table 3-24: Informal Mentoring Networks Are More Widely Available to White Personnel Than Minority Personnel

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	140	3.6%	14.3%	60.0%	22.1%
Minority	20	20.0%	50.0%	15.0%	15.0%
Total	160	5.6%	18.8%	54.4%	21.3%

Table 3-25: Minorities Have Equal Opportunity for Professional Advancement

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	149	30.9%	65.1%	2.7%	1.3%
Minority	27	14.8%	44.4%	29.6%	11.1%
Total	176	28.4%	61.9%	6.8%	2.8%

Court Workplace Environment

Finally, Nebraska's court personnel were asked whether the court workplace environment for minorities has improved, remained the same, or gotten worse over the past five years. Just over 40% (41.1%) of court personnel characterize the work environment for minority court employees as getting better. Nearly 55% (54.8%) believe that the environment is the same and 4.0% believe that the environment is getting worse. When delineated by the race and ethnicity of the respondents, the numbers only change slightly. Just less than 50% (47.4%) of minority court personnel believe that the court environment is getting better. The majority of white court personnel believe that the environment is the same (57.1%).

Table 3-26: Work Environment for Minorities Over the Past Five Years

	Number	Getting Better	Staying the Same	Getting Worse
White	105	40.0%	57.1%	2.9%
Minority	19	47.4%	42.1%	10.5%
Total	124	41.1%	54.8%	4.0%

Equal Employment Opportunity Practices and Policies

The Task Force also took note of the hiring procedures of each court, specifically whether each court has established equal employment opportunity policies. Thus, EEO policies were requested from 93 district courts. The Administrative Office of the Courts, the state office that oversees the state-administered courts, provided the data for the county courts. Individuals from each district court provided a summary of those policies.

State-Administered Court System

The "state-administered court system" refers to those entities under the administrative direction of the Supreme Court through the Nebraska Administrative Office of the Courts. In addition to each of the 93 county courts, this office administers the state probation system, the Nebraska Supreme Court staff, Nebraska Court of Appeals staff, and the employees of the administrative office.

The policy on equal employment for county courts, set forth by the Nebraska Supreme Court, is as follows: "The Nebraska Supreme Court endorses the philosophy of equal employment opportunity. Employment will be made without discrimination on the basis of race, color, religion, sex, national origin, political affiliation, marital status, physical or mental handicap, or age. Such employment action includes, but is not limited to, recruitment, hiring, job assignment, training, transfer, promotion, discipline, benefits, and educational opportunities." Measures to assure that these mandates are employed have been incorporated into hiring practices at all levels of the Nebraska state-administered court system.

Nebraska District Courts

Nebraska district courts are not under the direction of the Nebraska Supreme Court but instead are independently managed by the elected district court clerk in cooperation with the county of origin. Thus individual counties, each with a Nebraska district court clerk elected by the district's constituents, employ their own EEO guidelines and employment strategies.

With no central administrator, data for these courts were much more difficult to collect. Four different letters requesting statistical information were sent directly to each of the 93 clerks of the district courts in July, September, January, and March of 2001 and 2002. These four letters produced only 35 responses from various district court clerks around the state. The Nebraska district courts not reporting were contacted by phone during the week of May 27-31, 2002. Results from contacting all district court clerks in Nebraska were too unreliable to analyze statistically. Over 10 counties responded that they did not have EEO policies in place. Upon inquiry, over 20 of the other counties replied that they were not sure if they had EEO policies or did not know what EEO policies were.

Perceptions of Diversity in Nebraska's Courts

Specific questions in the surveys of court employees and the Nebraska State Bar Association membership inquired as to whether minorities were adequately represented in judicial positions. Nebraska court personnel were asked how strongly they agreed or disagreed with a general statement relating to all Nebraska judges, namely: "Racial and ethnic minorities are adequately represented among

Nebraska's judges." A majority (59.8%) of court personnel disagreed or strongly disagreed with the statement that racial and ethnic minorities are adequately represented among Nebraska judges, with 65.5% of minority personnel and 58.5% of white personnel disagreeing or strongly disagreeing.

Table 3-28: Minorities Are Adequately Represented Among Nebraska Judges

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	118	7.6%	33.9%	47.5%	11.0%
Minority	29	3.4%	31.0%	31.0%	34.5%
Total	147	6.8%	33.3%	44.2%	15.6%

Nebraska State Bar Association members were given the same statement, but were asked to apply it to a number of specific courts, namely the Nebraska Supreme Court, Nebraska Court of Appeals, Nebraska district courts, and Nebraska county courts. Table 3-29 shows that nearly 85% of minority Bar members and 69.1% of white Bar members disagree or strongly disagree with the statement that racial and ethnic minorities are adequately represented among Nebraska Supreme Court judges. There are no minorities on the Nebraska Supreme Court.

Results were very similar when Nebraska attorneys were asked about the Nebraska Court of Appeals (Table 3-30). Again, almost 84% of minority respondents and 70% of white Bar members disagree or strongly disagree that racial and ethnic minorities are adequately represented among Nebraska Court of Appeals judges. There are no minorities on the Nebraska Court of Appeals.

When asked about Nebraska's district court judges, again, almost 85% of minority Bar members disagreed or strongly disagreed with the statement that racial and ethnic minorities are adequately represented among Nebraska district court judges (Table 3-31). The percentage of white Bar members who also disagree or disagree strongly fell to just over 59%. There are no minorities among the judges of Nebraska's district courts.

In Table 3-32, 70% of minority Bar members disagree or disagree strongly with the proposition that minorities are adequately represented among Nebraska's county court judges. This is compared to just over 45% of white Bar members who disagree or strongly disagree. There are two minority county judges among Nebraska's 59 county judges.

Finally, the Bar members were asked about the separate juvenile courts and whether minority judges were adequately represented. Just over 57% of minority Bar members disagree or strongly disagree that minorities were adequately represented on the separate juvenile courts. Approximately 35% of white Bar members also reported that minorities are underrepresented on the separate juvenile courts. Two of the 10 judges on the three separate juvenile courts are minorities (Table 3-33).

Table 3-29: Minorities Are Adequately Represented Among Nebraska Supreme Court Judges

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	643	4.7%	26.3%	50.4%	18.7%
Minority	46	6.5%	8.7%	30.4%	54.3%
Total	689	4.8%	25.1%	49.1%	21.0%

Table 3-30: Minorities Are Adequately Represented Among Nebraska Court of Appeals Judges

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	625	4.8%	26.4%	50.7%	18.1%
Minority	43	7.0%	9.3%	30.2%	53.5%
Total	668	4.9%	25.3%	49.4%	20.4%

Table 3-31: Minorities Are Adequately Represented Among Nebraska District Court Judges

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	605	5.1%	35.5%	44.6%	14.7%
Minority	46	6.5%	8.7%	32.6%	52.2%
Total	651	5.2%	33.6%	43.8%	17.4%

Table 3-32: Minorities Are Adequately Represented Among Nebraska County Court Judges

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	602	7.5%	47.2%	33.6%	11.8%
Minority	46	6.5%	23.9%	30.4%	39.1%
Total	648	7.4%	45.5%	33.3%	13.7%

Table 3-33: Minorities Are Adequately Represented Among Juvenile Court Judges

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	494	9.9%	54.7%	26.5%	8.9%
Minority	42	11.9%	31.0%	33.3%	23.8%
Total	536	10.1%	52.8%	27.1%	10.1%

Court personnel and members of the Nebraska State Bar Association were also asked whether it is important to increase the diversity of Nebraska's judges and county attorneys and the effect this change would have on the delivery of judic ial services to Nebraska's minority community. As illustrated in Table 3-34, a substantially greater percentage of minority court personnel (57.1%) and minority Bar members (65.3%) believe that increasing the number of minority judges and county attorneys is very important than did white court personnel (20.4%) and white Bar members (23.4%). In fact, over 31% (31.6%) of white court personnel and 38.5% of white Bar members responded that it was not important to increase the number of minority judges and county attorneys compared to 14.3% of minority court personnel and 16.3% minority Bar members.

Table 3-34: Increasing the Number of Minority Judges and County Attorneys

Court Personnel	Number	Very Important	Somewhat Important	Not Important
White	206	20.4%	48.1%	31.6%
Minority	28	57.1%	28.6%	14.3%
Total	234	24.8%	45.7%	29.5%
Bar Members				
White	710	23.4%	38.2%	38.5%
Minority	49	65.3%	18.4%	16.3%
Total	759	26.1%	36.9%	37.0%

A striking difference in perception arose from a court personnel question on the hiring and promotion opportunities for minority judges. A near consensus of minority court personnel (93.8%) responded that there were few or no hiring or promotion opportunities for minority judges compared to 43.1% of white court personnel. That means that almost 57% of white court personnel responded that there are some or many hiring or promotion opportunities for minority judges while a mere 6.3% of minority court personnel responded likewise.

Table 3-35: Advancement Opportunities for Minority Judges

	Number	None	Few	Some	Many
White	79	8.9%	34.2%	39.2%	17.7%
Minority	16	31.3%	62.5%	0.0%	6.3%
Total	95	12.6%	38.9%	32.6%	15.8%

Inappropriate Conduct by Judges, Lawyers, Court Personnel, and Probation Employees

The Task Force also was interested in the perceived treatment of minorities in the Nebraska court system, and thus asked several questions related to personal conduct. Respondents were asked to indicate the frequency with which inappropriate incidents (inappropriate comments or slurs or disrespectful treatment of minorities) occurred in their presence or to their knowledge.

An environment free of inappropriate comments or jokes of a racial or ethnic nature, racial or ethnic slurs, and disrespectful or discourteous treatment of minorities is essential in order to sustain a successful racially diverse workplace. For instance, the Ohio Commission on Racial Fairness found that "when negative racial language use is common…it not only affects the work performance of the victim but that of the entire institution. This is to say, that everyone in an institution gains when there are norms of respect applied to everyone…" (1999, 23).

Currently, neither the Nebraska Supreme Court nor the Nebraska State Bar Association requires sensitivity, multicultural, or diversity training for judges or lawyers. The Administrative Office of the Courts coordinates an orientation for new judges, which includes some sensitivity issues, but there is no formal training for existing judges unless ordered by the Supreme Court as disciplinary action.

Overall Perceptions

Over 95% (96.4%) of court personnel and 88.5% of Bar respondents either strongly agree or agree that court personnel are helpful and courteous. However, white court personnel (96.4%) and white Bar members (89.0%) were more likely to agree or strongly agree than minority court personnel (78.9%) and minority Bar members (80.8%).

Table 3-36: Court Personnel Are Helpful and Courteous

Court Personnel	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	360	36.7%	59.7%	2.5%	1.1%
Minority	37	37.8%	40.5%	16.2%	5.4%
Total	397	36.8%	57.9%	3.8%	1.5%
Bar Members					
White	763	19.8%	69.2%	8.8%	2.2%
Minority	47	8.5%	72.3%	2.1%	17.0%
Total	810	19.1%	69.4%	8.4%	3.1%

Bar respondents were more likely to report that they had witnessed inappropriate jokes or comments, racial or ethnic slurs, and disrespectful or discourteous treatment toward minorities by each of attorneys, judges, court personnel, and probation employees than were court personnel respondents. The only exception was that 2.7% more court personnel reported witnessing inappropriate comments or jokes made by court personnel than did Bar respondents.

Minority respondents, both court personnel and Bar members, were almost always more likely than white respondents to report that they had witnessed or were aware of inappropriate jokes or comments, racial or ethnic slurs, and disrespectful or discourteous treatment toward minorities by each of attorneys, judges, court personnel, and probation employees. The only exception was that 0.1% more white Bar members reported witnessing inappropriate comments or jokes made by attorneys than did minority Bar members.

In general, judges were the least likely to be accused of making inappropriate jokes or comments, using racial or ethnic slurs, or acting disrespectfully toward minorities. Probation employees received similar marks to judges. Court personnel and lawyers were the most likely to have been overheard making inappropriate jokes or comments, using racial or ethnic slurs, or acting disrespectfully toward minorities.

When court personnel or members of the Nebraska State Bar Association responded that they had witnessed or were aware of inappropriate acts, the frequency of those acts was usually reported as occurring “somewhat frequently” or “infrequently” as opposed to “frequently” or “very frequently.” Notable deviations from this statement are discussed in the narrative that follows.

Inappropriate Comments by Lawyers

When asked if they had heard inappropriate comments by lawyers, a majority of court personnel (68.0%) and just over a third of Bar respondents (34.3%) reported that they had never heard or were not aware of such comments. Just over half of minority personnel (54.1%) and 28.8% of minority Bar

respondents said that comments of that nature had never been made in their presence. White respondents reported similar experiences. Just over 59% (59.3%) of white personnel respondents and 28.7% of white Bar respondents had never heard comments of that sort.

Table 3-37: Inappropriate Comments or Jokes Have Been Made by an Attorney

Court Personnel	Number	Very Frequently	Frequently	Somewhat Frequently	Infrequently	Never
White	378	0.5%	2.9%	9.3%	28.0%	59.3%
Minority	37	5.4%	2.7%	16.2%	21.6%	54.1%
Total	415	1.0%	2.9%	9.9%	27.5%	58.8%
Bar Members						
White	857	0.9%	7.2%	17.9%	45.3%	28.7%
Minority	52	1.9%	7.7%	34.6%	26.9%	28.8%
Total	909	1.0%	7.3%	18.8%	44.2%	28.7%

Inappropriate Comments by Judges

Bar members and court personnel responded similarly when asked the frequency with which inappropriate comments or jokes of a racial or ethnic nature have been made in their presence by a judge. Impartiality is an essential aspect of a judge, inherent to the position. Despite that, 28.5% of Bar respondents and 21.0% of court personnel respondents reported knowing of or hearing such a comment or joke made by a judge. Conversely, a substantial majority, 71.5% of Bar respondents and 79.0% of court personnel respondents, said that they had never heard such an inappropriate comment or joke made by a judge.

Table 3-38: Inappropriate Comments or Jokes Have Been Made by a Judge

Court Personnel	Number	Very Frequently	Frequently	Somewhat Frequently	Infrequently	Never
White	378	0.0%	0.3%	3.4%	16.9%	79.4%
Minority	37	2.7%	2.7%	8.1%	10.8%	75.7%
Total	415	0.2%	0.5%	3.9%	16.4%	79.0%
Bar Members						
White	843	0.1%	0.9%	5.7%	21.4%	71.9%
Minority	51	2.0%	2.0%	5.9%	25.5%	64.7%
Total	894	0.2%	1.0%	5.7%	21.6%	71.5%

Inappropriate Comments by Court Personnel

Among both court personnel and Bar members, a majority of both white and minority respondents reported that they had not heard of inappropriate comments by court personnel. Of those who had, minority respondents were much more likely to state that these comments are somewhat frequent in nature. In fact, almost half of minority court personnel (47.4%) reported that inappropriate comments or jokes of a racial or ethnic nature have been made in their presence by court personnel

compared to 36.4% of white court personnel. Over 40% (41.2%) of minority and 34.6% of white Bar respondents also reported that they have heard inappropriate comments or jokes made by court personnel.

Table 3-39: Inappropriate Comments or Jokes Have Been Made by Court Personnel

Court Personnel	Number	Very Frequently	Frequently	Somewhat Frequently	Infrequently	Never
White	378	0.5%	2.6%	7.4%	25.9%	63.5%
Minority	38	0.0%	2.6%	23.7%	21.1%	52.6%
Total	416	0.5%	2.6%	8.9%	25.5%	62.5%
Bar Members						
White	842	0.2%	1.3%	7.5%	25.5%	65.4%
Minority	51	2.0%	3.9%	21.6%	13.7%	58.8%
Total	893	0.3%	1.5%	8.3%	24.9%	65.1%

In addition to soliciting responses to survey questions, Bar members and court personnel were asked to relate specific experiences about racial or ethnic bias or discrimination in the Nebraska court system. One court employee included this account with the survey, demonstrating that another court employee believes Hispanics should not live in Nebraska. There were a handful of accounts not dissimilar to this.

> A year ago I answered the phone in the clerk's office and a court employee from one of the district courts called. She had questions about a criminal case involving a Hispanic individual….and this employee was having problems preparing the needed documents for his appeal. Her comment to me was "I wish they would send all these people back where they came from." Needless to say, she assumed she was speaking to a white person as she could have never guessed that I was of Hispanic descent…. I feel that it could benefit court personnel to take training regarding minorities.

Another court employee, from a different region of the state, described an incident in which a county court employee in her office withheld a document from a patron due to stereotypical assumptions about her ability to read.

> In one particular instance a county court personnel refused to give a college-educated Native American woman a copy of a police report because there were big words in there that she may not understand.

Inappropriate Comments by Probation Employees

Nearly three-quarters (74.0%) of court personnel responded that they had never heard inappropriate comments by probation employees. Of this group, 64.9% of minority court personnel respondents answered that they had never witnessed inappropriate comments or jokes of a racial or ethnic nature by a probation employee compared to 74.9% of white court personnel respondents.

Table 3-40: Inappropriate Comments or Jokes Have Been Made by a Probation Employee

	Number	Very Frequently	Frequently	Somewhat Frequently	Infrequently	Never
White	371	0.0%	0.5%	6.7%	17.8%	74.9%
Minority	37	0.0%	0.0%	18.9%	16.2%	64.9%
Total	408	0.0%	0.5%	7.8%	17.6%	74.0%

Racial or Ethnic Slurs by Attorneys

When asked the frequency with which they had heard racial or ethnic slurs used by an attorney, again fewer Bar respondents (26.9% minority and 34.8% white) reported having never heard racial or ethnic slurs used by an attorney than court personnel reported (62.2% minority and 68.6% white).

Table 3-41: Racial or Ethnic Slurs by an Attorney

Court Personnel	Number	Very Frequently	Frequently	Somewhat Frequently	Infrequently	Never
White	382	0.3%	2.1%	7.9%	21.2%	68.6%
Minority	37	5.4%	5.4%	10.8%	16.2%	62.2%
Total	419	0.7%	2.4%	8.1%	20.8%	68.0%
Bar Members						
White	857	1.4%	5.4%	14.9%	43.5%	34.8%
Minority	52	0.0%	9.6%	25.0%	38.5%	26.9%
Total	909	1.3%	5.6%	15.5%	43.2%	34.3%

In addition to the comments made by those members of the Nebraska State Bar Association and court personnel included in the survey, the Task Force received public testimony, either at one of eight public hearings around the state or via letters mailed to the Task Force. A law firm staff member submitted written testimony concerning a civil case involving an Hispanic plaintiff. She reported overhearing the defense attorney, who is a partner in the firm, make several ethnic slurs about the plaintiff.

> …I overheard [attorney's name] refer to this person as a "wetback," a "stupid Mexican," a "dirty Mexican," and other racial slurs which I won't repeat. Another attorney who works here asked [attorney's name] if he was going to win the court case, and his response was, "I spoke to the judge that is hearing this case, and he doesn't like Mexicans either, so it looks good."

Racial or Ethnic Slurs by Judges

Over 21% (21.6%) of minority court personnel and 33% of minority Bar respondents reported having heard racial or ethnic slurs used by a judge. White respondents were also aware of racial and ethnic slurs on the part of Nebraska judges, with nearly 21% of white Bar respondents and 14.7% of white court personnel respondents indicating that judges have made racial or ethnic slurs in their presence.

Conversely, the majority of court personnel (84.7%) and Bar respondents (78.5%) reported having never heard such slurs.

Table 3-42: Racial or Ethnic Slurs by a Judge

Court Personnel	Number	Very Frequently	Frequently	Somewhat Frequently	Infrequently	Never
White	382	0.0%	0.0%	3.4%	11.3%	85.3%
Minority	37	0.0%	2.7%	10.8%	8.1%	78.4%
Total	419	0.0%	0.2%	4.1%	11.0%	84.7%
Bar Members						
White	844	0.4%	0.7%	4.3%	15.4%	79.3%
Minority	51	2.0%	3.9%	3.9%	23.5%	66.7%
Total	895	0.4%	0.9%	4.2%	15.9%	78.5%

Racial or Ethnic Slurs by Court Personnel

While a small percentage of respondents reported hearing or knowing of court personnel making racial or ethnic slurs, minority respondents, both personnel and Bar members, were much more likely than whites to report knowing of such incidents. Specifically, 40.5% of minority court personnel and 37.3% of minority Bar members reported having knowledge of court personnel making a racial or ethnic slur. The majority of court personnel (72.6%) and Bar respondents (73.1%) reported having never heard slurs by court personnel.

Table 3-43: Racial or Ethnic Slurs by Court Personnel

Court Personnel	Number	Very Frequently	Frequently	Somewhat Frequently	Infrequently	Never
White	383	0.3%	1.8%	4.7%	19.3%	73.9 %
Minority	37	0.0%	2.7%	24.3 %	13.5%	59.5%
Total	420	0.2%	1.9%	6.4%	18.8%	72.6%
Bar Members						
White	844	0.2%	1.1%	5.9%	19.1%	73.7%
Minority	51	2.0%	3.9%	11.8%	19.6%	62.7%
Total	895	0.3%	1.2%	6.3%	19.1%	73.1%

Racial and Ethnic Slurs by Probation Employees

Almost 20% (19.8%) of all court personnel reported having heard or knowing of racial or ethnic slurs by probation employees. Again, more minority court personnel (29.7%) than white personnel (18.8%) reported having witnessed or knowing of such activity. As with judges and court personnel, the substantial majority of respondents (80.2%) reported that they had never heard slurs by probation employees.

Table 3-44: Racial or Ethnic Slurs by a Probation Employee

Court Personnel	Number	Very Frequently	Frequently	Somewhat Frequently	Infrequently	Never
White	377	0.0%	0.5%	4.0%	14.3%	81.2%
Minority	37	2.7%	0.0%	18.9%	8.1%	70.3%
Total	414	0.2%	0.5%	5.3%	13.8%	80.2%

Disrespectful Treatment of Minorities by Lawyers

Finally, court personnel and members of the Nebraska State Bar Association were asked the frequency with which they had "witnessed disrespectful or discourteous treatment toward minorities by an attorney." Bar members were much more likely to report having witnessed disrespectful treatment by another attorney than were court personnel. This was especially the case among minority Bar members. In fact, while 40.5% of minority court personnel responded that they had witnessed disrespectful treatment on the part of a lawyer, almost two-thirds (62.7%) of minority Bar respondents reported having seen disrespectful treatment. Conversely, less than a sixth of white court personnel (15.0%) and over a third (37.3%) of white Bar respondents reported the same. Thus, the majority of court personnel (82.8%) and Bar respondents (61.3%) reported having never witnessed disrespectful or discourteous treatment by a lawyer.

Table 3-45: Disrespectful or Discourteous Treatment by a Lawyer

Court Personnel	Number	Very Frequently	Frequently	Somewhat Frequently	Infrequently	Never
White	381	0.0%	1.6%	2.4%	11.0%	85.0%
Minority	37	5.4%	8.1%	16.2%	10.8%	59.5%
Total	418	0.5%	2.2%	3.6%	11.0%	82.8%
Bar Members						
White	855	0.5%	2.8%	11.0%	23.0%	62.7%
Minority	51	5.9%	9.8%	27.5%	19.6%	37.3%
Total	906	0.8%	3.2%	11.9%	22.8%	61.3%

Disrespectful Treatment of Minorities by Judges

More than 10% of court personnel (10.3%) and 22.2% of Nebraska State Bar Association members responded that they "have witnessed disrespectful or discourteous treatment toward minorities by a judge." When delineated by the race or ethnicity of the respondent, over 47% (47.1%) of minority Bar respondents reported an awareness of this type of treatment. A substantially lower percentage (20.7%) of white Bar respondents answered in the same manner. Just less than 10% (9.8%) of minority Bar members reported having witnessed such treatment by a judge very frequently. Again, the majority, almost 90% of court personnel (89.7%) and more than three-quarters of Bar respondents (77.8%), reported having never witnessed or known of disrespectful or discourteous treatment by a judge.

Table 3-46: Disrespectful or Discourteous Treatment by a Judge

Court Personnel	Number	Very Frequently	Frequently	Somewhat Frequently	Infrequently	Never
White	382	0.0%	0.8%	1.6%	6.3%	91.4%
Minority	37	2.7%	2.7%	8.1%	13.5%	73.0%
Total	419	0.2%	1.0 %	2.1%	6.9%	89.7%
Bar Members						
White	847	0.4%	1.7%	5.3%	13.3%	79.3%
Minority	51	9.8%	3.9%	19.6%	13.7%	52.9%
Total	898	0.9%	1.8%	6.1%	13.4%	77.8%

Disrespectful Treatment of Minorities by Court Personnel

When asked about their experience of witnessing disrespectful or discourteous treatment toward minorities by court personnel, almost 61% (60.5%) of minority and 85.8% of white court personnel responded that they had never witnessed such acts. More than half (54.0%) of minority and 76.2% of white Bar respondents said they had never witnessed such treatment. Of the minority Bar respondents who reported witnessing disrespectful or discourteous treatment, 10.0% witnessed these acts very frequently, another 10.0% witnessing these acts frequently.

Table 3-47: Disrespectful or Discourteous Treatment by Court Personnel

Court Personnel	Number	Very Frequently	Frequently	Somewhat Frequently	Infrequently	Never
White	381	0.0%	1.6%	4.2%	8.4%	85.8%
Minority	38	7.9%	10.5%	13.2%	7.9%	60.5%
Total	419	0.7%	2.4%	5.0%	8.4%	83.5%
Bar Members						
White	846	0.2%	1.7%	7.9%	13.9%	76.2%
Minority	50	10.0%	10.0%	10.0%	16.0%	54.0%
Total	896	0.8%	2.1%	8.0%	14.1%	75.0%

Disrespectful Treatment of Minorities by Probation Employees

When asked how frequently they had "witnessed disrespectful or discourteous treatment toward minorities by a probation employee," 77.8% of minority court personnel respondents answered that they had never witnessed such disrespect, compared to nearly 91.3% of white court personnel.

Table 3-48: Disrespectful or Discourteous Treatment by a Probation Employee

	Number	Very Frequently	Frequently	Somewhat Frequently	Infrequently	Never
White	378	0.0%	0.5%	1.3%	6.9%	91.3%
Minority	36	2.8%	2.8%	11.1%	5.6%	77.8%
Total	414	0.2%	0.7%	2.2%	6.8%	90.1%

Findings

1. In obtaining data, the decentralized nature of the Nebraska district courts made it difficult to collect data regarding the number of minority employees employed by the district courts, the grievance procedures, the number of complaints filed in the past year, and the hiring policies and procedures for each district court.

2. In obtaining data, the centralized nature of the Nebraska county courts allowed for the thorough and timely collection of data regarding the number of minority employees employed by the county courts across the state, the grievance procedures in place, the number of complaints filed in the past year, and the hiring policies and procedures for each county court.

3. Nebraska's racial and ethnic minorities are either absent or substantially underrepresented as employees at every level of the state's court system.

4. Minority candidates are more likely to seek and learn of job opportunities through friends, networking and multiple means than through advertising or other traditional means.

5. There is no regular review to evaluate the diversity of the state's court employees.

6. There is no uniform method in the Nebraska district courts for the processing of discrimination complaints and there exists no uniform affirmative action or equal employment opportunity policies.

7. Significant differences in perception exist between white and minority court personnel concerning the nature of the hiring process and the likelihood of minorities receiving preferential or discriminatory treatment, both in hiring and while on the job.

8. Court personnel and Bar members report having witnessed or that they were aware of inappropriate comments or jokes of a racial or ethnic nature, racial or ethnic slurs, and disrespectful and discourteous treatment of minorities.

Recommendations

1. The court systems and all individuals hiring court personnel should adopt aspirational goals to have a workforce that is reflective of a diverse community. Responsibility for attaining such objectives should be delegated to appropriate administrators and job performance evaluations should include a review of individual performance in attaining such goals.

2. The court systems should adopt, publish and enforce comprehensive policies for assuring equal opportunity and recruitment of minority employees. Monitoring systems should be established at all levels and administered to assure adherence to such policies to ensure that diversity commensurate with that of the community is being achieved.

3. A formal discrimination complaint procedure should be developed by all court systems and communicated to all employees of the court systems in personnel manuals given to all employees and on announcements posted in court offices.

4. A formal education process should be designed, developed and repeated periodically by the Nebraska Supreme Court to address differences in perception between white and minority employees.

5. All Nebraska court employment specifications and policies should be reviewed and updated to encourage bilingual skills and multicultural knowledge where such capabilities would better serve the public, and such skills should be appropriately compensated.

6. The Nebraska court systems should have, as a performance goal, an ongoing effort to recruit qualified minority applicants for managerial and supervisory positions.

7. A variety of means should be used to inform minority candidates of employment opportunities. These means should include, but not be limited to, multilingual advertisements placed in ethnic centers, churches, and other locations where minorities will be reached. All advertisements should emphasize that the court systems are equal opportunity employers.

Chapter 4: Legal Profession

In a recent report, the American Bar Association's Commission on Racial and Ethnic Diversity concluded that the legal profession provides fewer opportunities for racial and ethnic minorities than for whites (Miles to Go: Progress of Minorities in the Legal Profession 1998). The report indicated that the goal of "full and equal participation" has not been met and is not close to being met. According to the report by the Commission's Profession Subcommittee, minorities represent 10% of those employed by the legal profession, a percentage substantially lower than that found in the population (Miles to Go: Progress of Minorities in the Legal Profession 1998). Thus, minorities are underrepresented, as compared to their percentage in the population, in the nation's legal community. In addition, compared to the mid-1980s and early 1990s, the rate of increase of minority entry into the legal profession has slowed considerably at the national level since the mid-1990s (Miles to Go: Progress of Minorities in the Legal Profession 1998).

Underrepresentation in and of itself does not necessarily suggest overt bigotry or discrimination. Instead, it suggests a more subtle, but a no less significant, barrier to full participation – specifically a lack of opportunity. Underrepresentation of racial and ethnic minorities in the legal community, as compared to their percentage in the population, is a concern for several reasons. Most importantly, a diverse community is more likely to be an accepting community, sensitive to racial and ethnicity issues and the unrecognized biases of those in the majority (Idaho Supreme Court Fairness and Equality Committee 1992).

Research by the American Bar Association has documented racial disparities in the legal profession (Miles to Go: Progress of Minorities in the Legal Profession 1998). For instance, minorities traditionally have been underrepresented in firm partnerships and judicial appointments (Ibid.). According to the Washington Minority and Justice Task Force (1990), despite similar levels of educational attainment, minority lawyers are more likely than whites to be employed as government lawyers and public defenders, legal career options that pay substantially less than private practice. Similarly, the California Judicial Committee on Racial and Ethnic Bias in the Courts found that despite increases in minority law school graduates, these increases have yet to affect the total number of minorities at the partnership level in large firms (1997). Moreover, other states have focused on the concern that minorities are underrepresented on the staff of state bar associations, especially in positions of influence (Florida Supreme Court Racial and Ethnic Bias Commission 1990). In short, minorities experience unique difficulties to employment, recruitment, career advancement, attrition, and lack of professional development opportunities (Michigan Supreme Court Task Force on Racial/Ethnic Issues in the Courts 1989; Miles to Go: Progress of Minorities in the Legal Profession 1998).

For these reasons, the Minority and Justice Task Force has chosen to examine the opportunities for minorities in Nebraska's legal profession by collecting data from Nebraska's law schools, administering a survey of Nebraska State Bar Association members, and conducting focus groups with affected parties. These methods assess the "attitudes" of those who responded. These attitudes are not necessarily reflective of reality as much as the respondents' perceptions of reality.

Recruitment, Admission, Mentoring, and Placement by the Law Schools in Nebraska

Nebraska has two law schools, the University of Nebraska College of Law and Creighton University School of Law. Each currently has a student body of more than 400. In 2002, the University of Nebraska enrolled 415 students, while Creighton has a somewhat larger student body at 487. Of these

902 law students, 83, or 9.2%, are racial or ethnic minorities, representing three minority races (black, Native American, and Asian), and two minority ethnicities (Hispanic and Arab). Discussed below are the data collected on the recruitment, admission, mentoring, and placement of minority law students. The law schools' recruitment policies, procedures, and efforts to diversify are discussed separately at the end of this section.

Table 4-1 illustrates the student body enrollment for the University of Nebraska College of Law and Creighton University School of Law from 1992 to the present compared to national enrollment figures. Minority enrollment at Creighton increased steadily over the decade from a low of 6.4% in 1992 to a high of 11.6% in 2001. The University of Nebraska witnessed a slight decline over that same period, topping out at 10.3% in 1994. Minority enrollment at the University of Nebraska College of Law is currently 7.8%. Percentages at both law schools are approximately half that of minority enrollment nationally.

While the population of Nebraska lacks the racial and ethnic diversity found in many states – the U.S. population is 30.9% minority, Nebraska is 12.7% – the University of Nebraska College of Law and Creighton University School of Law recruit prospective law students nationally. Minority enrollment in law schools nationally was 20.6% in 2001, which is 66.6% of what would be "expected" given the diversity of the U.S. population.

Table 4-1: Minority Enrollment at Nebraska's Law Schools
1992 to Present

	University of Nebraska		Creighton University		National
Year	Raw	Percentage	Raw	Percentage	Percentage
1992	45 / 464	9.7%	38 / 592	6.4%	16.6%
1993	47 / 469	10.0%	38 / 557	6.8%	17.8%
1994	45 / 437	10.3%	35 / 536	6.5%	19.1%
1995	38 / 415	9.2%	36 / 504	7.1%	19.7%
1996	37 / 386	9.6%	42 / 477	8.8%	19.7%
1997	35 / 373	9.4%	49 / 449	10.9%	19.6%
1998	33 / 393	8.4%	39 / 424	9.2%	20.1%
1999	29 / 379	7.7%	40 / 427	9.4%	20.2%
2000	23 / 372	6.2%	45 / 453	9.9%	20.6%
2001	34 / 396	8.6%	54 / 467	11.6%	20.6%
2002	32 / 415	7.8%	51 / 487	10.5%	NA

Sources: University of Nebraska College of Law and Creighton University School of Law
Note: University of Nebraska minority enrollment numbers include international students while those provided by Creighton University do not include international students. It should be noted, however, that the number of international students tends to be small.

In Tables 4-2 and 4-3, the enrollment figures for each year from 1992-2002 are further delineated into the specific race and ethnicity categories. Over the period, one in which overall enrollment dropped 11.0%, the University of Nebraska witnessed a sharp decline in black enrollment and relatively consistent enrollment across the other categories. Creighton minority enrollment remained relatively steady across racial and ethnic groups throughout the decade despite a 19.0% decline in overall enrollment during the period.

Table 4-2: Minority Enrollment at the University of Nebraska College of Law 1992 to Present

Year	White	Black	Hispanic	Native American	Asian	Minority/Overall	Percent Minority
1992	419	17	11	4	13	45 / 464	9.7%
1993	422	21	13	5	8	47 / 469	10.0%
1994	392	16	17	2	10	45 / 437	10.3%
1995	377	10	13	2	9	38 / 415	9.2%
1996	349	10	13	2	12	37 / 386	9.6%
1997	338	7	9	2	17	35 / 373	9.4%
1998	360	11	7	1	14	33 / 393	8.4%
1999	350	10	7	1	11	29 / 379	7.7%
2000	349	7	6	0	10	23 / 372	6.2%
2001	362	6	14	0	14	34 / 396	8.6%
2002	383	3	13	3	13	32 / 415	7.8%

Source: University of Nebraska College of Law.
Note: International students are included in Table 4-2.

Table 4-3: Minority Enrollment at the Creighton University School of Law 1992 to Present

Year	White	Black	Hispanic	Native American	Asian	Minority/Overall	Percent Minority
1992	554	17	16	0	5	38 / 592	6.4%
1993	519	16	20	0	2	38 / 557	6.8%
1994	501	13	16	0	6	35 / 536	6.5%
1995	466	14	14	0	10	38 / 504	7.5%
1996	411	11	16	1	14	42 / 453	9.3%
1997	399	13	21	3	12	49 / 448	10.9%
1998	385	9	20	3	7	39 / 424	9.2%
1999	387	12	19	4	5	40 / 427	9.4%
2000	408	15	22	3	5	45 / 453	9.9%
2001	409	19	20	5	10	54 / 463	11.6%
2002	431	16	21	3	11	51 / 482	10.5%

Source: Creighton University School of Law.
Note: International students are not included in Table 4-3.

Table 4-4 shows the two law schools' minority job placement rates in comparison to national placement rates. In both cases, the figures appear to closely parallel national placement rates. The University of Nebraska College of Law does not maintain placement records delineated by race, but the overall numbers are similar to the national trend. The placement percentages for Creighton University School of Law graduates suggest that there is little difference in placement by race or ethnicity, and where differences exist, they are largely reflective of a national trend. Table 4-4 does not differentiate between those graduates who remain in Nebraska and those who accept jobs elsewhere. As a result, Table 4-4 cannot be used to determine how successful Nebraska is in retaining within the state minority graduates of its own law schools.

Table 4-4: Nebraska Law School Placement Rates from 1998 to 2000

	Private Practice	Public Sector	Business	Judicial Clerk	Non-Profit	Academic	Other	Unknown
University of Nebraska College of Law*								
White	NA	NA	NA	NA	NA	NA	NA	NA
Minority	NA	NA	NA	NA	NA	NA	NA	NA
Total	41.5%	30.3%	12.5%	9.5%	3.0%	3.2%	0.0%	0.0%
Creighton University School of Law								
White	50.8%	19.5%	19.2%	7.2%	1.5%	1.2%	0.3%	0.0%
Minority	40.0%	17.5%	25.0%	0.0%	2.5%	0.0%	15.0%	0.0%
Total	49.6%	19.3%	19.8%	6.4%	1.6%	1.1%	1.9%	0.0%
National Placement Rates								
White	57.4%	12.1%	12.7%	12.9%	2.1%	0.9%	0.0%	2.1%
Minority	49.9%	17.3%	14.7%	9.8%	4.4%	1.7%	0.0%	1.9%

Sources: University of Nebraska College of Law and Creighton University School of Law.
*The University of Nebraska College of Law does not collect placement statistics by race and ethnicity.

Law School Faculty and Administration

Currently, the University of Nebraska College of Law has three full time minority faculty members and no minority administrators. Creighton School of Law has three full time minority faculty members and no minority administrators.

Table 4-5: Law School Faculty and Administration Diversity
- 2002-03 Academic Year -

	Total	Minority	Percentage
University of Nebraska College of Law			
Full time Faculty	28	3	10.7%
Administrators	4	0	0.0%
Creighton University School of Law			
Full time Faculty	33	3	9.1%
Administrators	5	0	0.0%

Sources: University of Nebraska College of Law and Creighton University School of Law.

In a focus group with minority law students from the state's two law schools, several students expressed a desire for a more diverse faculty at their respective law schools, but at the same time stated their belief that the current law faculty treats them equally.

> I don't feel like any of our faculty members really treat us differently from any of the other students. Just generally, they are pretty welcoming. They are supportive. And if we have any problems with any professor, I don't think it's

> ever based on a race or ethnicity issue. It's more or less a personality thing where we just don't click.

Research Methods and Data Limitations

This section includes three types of data. The first is objective data from the law schools and the Nebraska State Bar Association. The second is attitudinal data collected by a survey of nearly a thousand members of the Nebraska State Bar Association. Finally, the Task Force gathered experiential data from focus groups with minority law students and Bar members.

The focus groups were held in September of 2002. Participants included 14 law students, seven from the University of Nebraska College of Law and seven from Creighton University School of Law. Five identified themselves as black or biracial, five as Hispanic, three as Asian, and one as Arab-American. The lawyer focus group had seven participants, ranging from nine to 23 years' experience in Nebraska's legal community. Five of the lawyers identified themselves as black or biracial, and the other two were Hispanic. Several focus group comments are included in this section. It should be noted, however, that these attitudes do not necessarily reflect the attitudes of all minority law students or minority lawyers, but instead are examples of attitudes that exist within those groups.

Through a grant from the Nebraska State Bar Association, the Minority and Justice Task Force sent a survey to each active Bar member living in the state, totaling 4,754, on March 1, 2002. Respondents were given until April 5to return the completed survey in the self-addressed, stamped envelope included in the mailing. By April 5, 960 responses were received. One reminder was sent via email. Another 20 responses were received by April 20, bringing the total to 980, or 20.6% of the survey population.

The survey was developed by the Legal Profession Subcommittee of the Minority and Justice Task Force. It includes many previously tested questions asked in either national surveys by the National Center for State Courts, American Bar Association, or other like institution, or state task forces and commissions studying racial and ethnic underrepresentation in the legal community. The survey had 64 questions, including 10 requesting demographic data.

By surveying 980 of 4,754 members, the margin of error for the entire sample is +/-2.8%. Of the estimated 114 minorities who are members of the Nebraska State Bar Association, 55 responded to the survey. Since the vast majority of respondents are white, almost 95%, the margin of error for white respondents is nearly the same as the margin of error for the entire sample, at +/-2.8%. The margin of error for minority respondents is more difficult to calculate because the population total is uncertain, but based on the Bar and U.S. Census estimates, the margin of error would be +/-9.5% (Manheim and Rich 1995, 428-429).

A more complete discussion of the research methodology is found in Chapter 5, page 139.

Perceptions of Nebraska State Bar Association Members

Generally speaking, the survey responses indicate that substantial differences in perception and experience exist between white and minority Bar members. For greater detail on methodology, see the Research Methods section. These differences cross educational, hiring, and promotional opportunities and include court environment, as found in other research areas, most notably the Personnel and Employment Section.

Specifically, white Bar members responding to the survey (84.9%) agreed or strongly agreed that law schools in Nebraska do an adequate job recruiting and admitting qualified minority law students. Substantially fewer of Nebraska's minority lawyers responded that they agreed there is adequate recruitment and admissions of minorities (43.6%). Nonetheless, 82.1% of the overall respondent pool agreed or strongly agreed that the law schools do an adequate job admitting qualified minority students.

Table 4-6: Law Schools in Nebraska Adequately Admit Qualified Minority Law Students

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	531	22.8%	62.1%	10.4%	4.7%
Minority	39	12.8%	30.8%	38.5%	17.9%
Total	570	22.1%	60.0%	12.3%	5.6%

This sentiment is again reflected when Bar members were asked if law schools in Nebraska should do more to recruit and admit qualified minority law students. While most minority Bar respondents (78.0%) agree that more should be done to recruit minority students, a lesser number of whites (43.1%) believe that law schools in Nebraska should do more to recruit and admit qualified minority law students. The difference between white and minority responses is sufficiently large that it is very likely that the white and minority lawyers have, as groups, substantially different views on this issue.

Table 4-7: Law Schools in Nebraska Should Do More to Recruit and Admit Qualified Minority Law Students

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	518	9.7%	33.4%	45.0%	12.0%
Minority	41	34.1%	43.9%	9.8%	12.2%
Total	559	11.4%	34.2%	42.4%	12.0%

Law Student Focus Group

In a focus group discussion, several current minority law students offered suggestions on how to increase and retain the number of minority law school students. They recommended exposing younger students, even those in primary and secondary school, to the idea of practicing law and maintaining a relationship throughout school.

> I think there needs to be more emphasis in the schools, and I think part of it would be a mentor type of program…where there's some reaching back into the community and saying, hey, you can do this, too, and there is an area of interest, and just to expose kids to the great wealth of areas that one can go into with a law degree. As was said, it doesn't even have to be the practice [of] law but [in] administration or government or something else.

According to one focus group participant, minority students may not consider law as a realistic profession because as they grow up they do not see many practicing lawyers the same race or from their neighborhood.

> I know that I never met a Hispanic lawyer until I got to college and I sought one out. I mean, it's just like that's pretty ridiculous that you have to look for one to find one.

Others recommended that community colleges should also be used as recruitment pools in an effort to identify candidates likely to succeed in the four-year and post-graduate environment.

> There should be a program that focuses also -- kids coming out of high school wanting to go to a community college, not necessarily going straight to undergrad, because there is a catch-up process, and I had to go through that process but I did catch up. And I did start realizing there are more options for me.

Several law students complained that the law schools' focus on Law School Admission Test (LSAT) scores is problematic because it narrows the selection process down to one or two variables used to predict success. One student mentioned that if the schools are going to rely so heavily on the LSAT, then they should create a summer support program for interested minority applicants who failed to meet the minimum LSAT for admission.

> If [the state] is really interested in recruiting minorities, I think if you could institute some sort of [program]… say if you get a certain score on the LSAT, you take this program, we will give you a shot. We will let you in. After you get in, it's up to you, but at least you know you have a shot at it. Something like that I think would work.

Lawyer Focus Group

In a focus group with minority lawyers from around the state, one minority lawyer with over 20 years' experience working in the state's court system argued that the law schools in Nebraska may have a lack of incentive to recruit large minority classes due to concern about national rankings and the effect that has on perceptions about the quality of education one receives from the institution.

> I think there is a disincentive for law schools to promote a large minority class because where accreditation is tied to bar pass rates and class averages and this kind of thing, many minority law students have difficulty because your scores may not be as high as some of your peers or you have difficulty taking the test. So I think there is a fear from the law schools that we are going to weigh the rest down. I think it's a misperception but it's their perception.

Another lawyer, a black graduate of the University of Nebraska College of Law, expressed frustration with the admission and retention rate of minority students at the school, noting that there are fewer minority law students now than there were when he graduated from the College of Law over a decade ago.

> The numbers have gotten smaller. The numbers who are graduating are getting even smaller….And I think you can attribute that to the lack of having an advisor and someone who feels they have a stake in the graduating of the minority student.

Reflecting on this person's law school experience, a law school graduate was frustrated by what she came to believe was inadequate institutional academic support for minority students. In fact, she reported receiving better guidance from an informal organization of minority law students.

> I guess I would say I found no barriers to acceptance. The difficulty started when I was in the law school, the lack of support, quite frankly. And then the support that was made available to me was only because of the Minority Law Student Organization on campus there in the law school that already existed. It certainly didn't come from the mainstream college.

Apart from recruitment and admissions, the Task Force is also interested in access to professional opportunities for law students. Equality in access to these professional development opportunities is crucial given the relative weight legal experience is given in the job market. Bar members were asked if they felt that sufficient clerking and internship opportunities exist for minority law students. While the majority of whites (76.1%) responded that minorities have sufficient clerking and internship opportunities, a significant majority of minority respondents (71.8%) believe that minorities do not have sufficient opportunities.

Table 4-8: Sufficient Clerking and Internship Opportunities Exist for Minority Law Students

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	423	13.5%	62.6%	18.2%	5.7%
Minority	39	10.3%	17.9%	25.6%	46.2%
Total	462	13.2%	58.9%	18.8%	9.1%

The issue of sufficient summer opportunities brought several suggestions from current law students. Several mentioned that in order to retain graduates, or even recruit potential students, the schools need to work with the state and private firms to spur the experiential opportunities that will give incentive to those who might stay.

> If you want more lawyers in Nebraska, then there has got to be more opportunity for them to get some kind of work while they are in school, find some reason to want to stay.

Perceptions of Law Student and Lawyer Opportunities

Whether discrepancies in opinion between white and minority respondents continue after law school and into the job market will be further examined in the Hiring, Retention and Promotion Section; however, since 86.8% of lawyers in the state of Nebraska graduated from law schools in Nebraska, the law schools clearly are a pipeline for lawyers in the Nebraska legal community. Therefore minority law school admissions are important to increasing the overall number of minority lawyers in the state. One student argued that if the state's legal community is interested in long-term diversification, the focus should be to graduate in-state residents.

> Once we get here, you know, it's really tough to keep somebody who comes to Nebraska from another state who knows that I am just here for the three years and I'm out. But if somebody goes to high school and does their undergrad here, they would have a much better shot at retention.

In a focus group with current minority law students, the majority of those in attendance expressed hesitation about practicing in Nebraska after their graduation. One student cited the difficulty in finding a desirable position as a contributing factor.

> I thought about staying in Nebraska. I have looked at, like, a lot of the big firms here, at the minority partnership, and there is one here or one there. And it seems like most of them have been hired in after they have had like a successful legal career somewhere else. They don't get recruited in and work their way up to partner at [firm name]. And that kind of bothered me a lot. And even like -- the people from the Midlands Bar Association [a largely minority Bar Association in the Omaha region] is who I did speak with about this. They told me that that's the way it is here. And I don't know if I want to come out here and struggle for eight or 10 years before I can go and get myself on a partnership track at some big firm.

Several practicing lawyers participating in the focus group made comments attesting to minority students' perception of a limited job market in Nebraska. They have found few opportunities beyond the traditional public positions.

> It's true that minorities leave the state because there are no opportunities and no one is making an effort to give opportunities. Very few. Like I say, many of the minority lawyers that I have known have either gone through Legal Aid or they have come in as – started out maybe in the public defender's office or something of that nature.

Others felt that the extra skills they possess, like linguistic skills and multicultural training, were not appreciated in Nebraska.

> You would think that with such a small minority group here, minorities in law school, we would be courted a little bit more by law firms, but you don't get anything. And it seems like the kinds of things that should make you marketable in a job interview, like speaking another language…no one seems to find that useful or interesting or anything like that.

Hiring, Retention, and Promotion in Nebraska's Legal Profession

The Task Force sought to understand the barriers that inhibit the membership of the Nebraska State Bar Association from reflecting the racial and ethnic breakdown of Nebraska's population. According to the 2000 U.S. Census, 12.7% of Nebraska's population is black, Hispanic, Native American, Asian American, or another minority group defined by the U.S. Census. Among those, 4.0% are black, 0.9% are Native American, 1.3% are Asian American, and almost 5.5% are Hispanic (either white or black). The Nebraska State Bar Association membership is estimated to be 2.4% minority.

The Minority and Justice Task Force examined several issues related to obtaining and retaining employment in the legal profession. More specifically, the Task Force examined trends in the current recruitment, hiring, retention, and advancement opportunities and practices available in Nebraska, as

perceived by those working in the legal profession. This section examines the situation for minorities in the legal profession in Nebraska and when possible, makes national and cross-state comparisons.

In a 1998 report on hiring and promotion practices by private law firms and government entities, the American Bar Association found that minorities are underrepresented in the legal profession, especially in upper-level jobs and the private sector (Miles to Go: Progress of Minorities in the Legal Profession 1998). While demographic data of the state's legal profession is not available[1], anecdotal evidence, as well as results from a survey of Nebraska State Bar Association members, suggests that this is also the case in Nebraska.

Employment Opportunities

The survey of NSBA members covered several areas of interest across the hiring, retention, and promotion spectrum. In many cases, including most of the results discussed here, minority Bar respondents have substantially different experiences and hold much different perspectives on employment practices and opportunities for minority Bar members than do white respondents. As discussed in the previous section, the Bar survey only represents a snapshot in time for a relatively representative group of Bar members. Since approximately one-fifth of the Bar "population" returned the survey, the findings discussed here use margins of error to illustrate the potential error between the survey sample and actual Bar membership.

The margin of error for white respondents is +/-2.8% and the margin of error for minority respondents is +/-9.5%. It is so much higher for minority respondents only because the raw number of minority respondents is so low compared to white respondents. This is a function of the fact that only 2.4% of the Nebraska State Bar Association membership identify themselves as an ethnic or racial minority. It is not due to the percentage response from each group. In fact, the percentage response for minority lawyers was higher than that of white lawyers.

There are noticeable differences in the positions currently held by minority and white Bar respondents (see Table 4-9). While only the "Private Practice – Firms" response category falls outside the margin of error, a trend exists in the data suggesting that minorities in Nebraska's legal profession hold higher percentages of academic, corporate, and government-public sector positions than those white lawyers responding to the survey. Additionally, minority lawyers responding to the survey are more likely to be solo practitioners than are white respondents. In fact, the positions that white lawyers substantially dominate are those in private practice law firms.

Table 4-9: Bar Members' Current Employment

	Number	Academic	Corporate	Government-Public Sector	Private Practice-Solo	Private Practice-Firm	Legal Services	Other
White	878	1.1%	7.9%	21.5%	19.8%	43.5%	2.1%	4.1%
Minority	51	5.9%	15.7%	23.5%	25.5%	23.5%	2.0%	3.9%
Total	929	1.4%	8.3%	21.6%	20.1%	42.4%	2.0%	4.1%

This finding, that lower percentages of the minority lawyers responding to the questionnaire are employed by private law firms, is consistent with similar findings both in other state reports and national research (Miles to Go: Progress of Minorities in the Legal Profession 1998; Florida Supreme Court Racial and Ethnic Bias Commission 1991; Michigan Supreme Court Task Force on Racial/Ethnic Issues 1989). Additional research, most notably in the state of Washington, has shown that minorities are more likely to

[1] Although the Nebraska State Bar Association keeps demographic information of its membership, race and ethnicity is an optional variable, often not reported.

be employed in government positions (Washington Minority and Justice Task Force 1990). This finding is supported here, but differences between the white and minority respondents fall within the margin of error.

Of course, some of this may speak to the personal choice of those seeking jobs. However, is the nature of one's employment a matter of personal choice or a function of opportunity, or both? As one minority lawyer argued, stereotyping may affect mainstream perceptions.

> One of the things that I don't like to see is I think us minorities, we're stereotyped into certain areas of law and, you know, I am trying to fight that perception that, no, we don't all just do a certain type of law because of who we are. We can do anything that we choose to do from patent law to antitrust. It doesn't matter. We can run the gamut just like anyone else can.

When asked, a high percentage of both minority (80.4%) and white (45.6%) respondents believe that in Nebraska, there are more opportunities in private law firms for white lawyers than for minority lawyers. Bar members also were asked if they felt there are more opportunities in private law firms for white lawyers, minority lawyers, or whether there was no difference.

Table 4-10: More Opportunities in Nebraska's Private Firms Are Available For:

	Number	Minority Lawyers	White Lawyers	No Difference
White	439	8.2%	45.6%	46.2%
Minority	46	8.7%	80.4%	10.9%
Total	485	8.2%	48.9%	42.9%

The findings reported in Table 4-10 suggest that, among those responding, both Nebraska's white and minority Bar members believe that white graduates have a better chance at employment in private firms. The American Bar Association Market Research Department, Division of Statistical Records, recently found that first-year lawyers at large private firms receive a salary over two times that of a lawyer employed in the public sector or working at a not-for-profit agency (http://www.nalp.org/nalpresearch/type01.htm).

Recruitment

The Nebraska State Bar Association survey asked how individuals obtained their current positions. The findings suggest that white survey respondents are more likely to employ family and networking connections and are more likely to have been recruited into their current position than are minority lawyers who answered the survey. Minority respondents, on the other hand, are more likely to answer advertisements and use connections through friends as a primary means of job searching. The fact that minority members are more likely to be first-generation law school graduates makes it less likely that they would use family connections to help secure a favorable employment opportunity. These findings may be of interest to firms interested in designing effective recruitment efforts.

It should be noted that all these differences fall within the margin of error, so it is impossible to assert that any true differences exist in the population of Nebraska State Bar Association members. Instead, the survey results for Table 4-11 can only be viewed as representative of those within the respondent pool and not the larger population.

Table 4-11: How Did You Find Out About Current Position?

	Number	Family	Friend	Networking	Advertising	Recruited	Other*	Multiple
White	809	8.5%	21.4%	10.3%	15.2%	11.1%	25.1%	8.4%
Minority	46	0.0%	28.3%	6.5%	23.9%	4.3%	23.9%	13.0%
Total	855	8.1%	21.8%	10.1%	15.7%	10.8%	25.0%	8.7%

*Other includes, among other things, placement offices and elected positions.

One aspect of hiring practices that may help to explain this difference relates to the firm or organization. Bar members were also asked if their current employer takes specific steps directed at recruiting minority lawyers. Survey results indicate that a majority of Bar members responding (61.1%) believe that their employer takes no steps to recruit minorities. Just over 15% (15.2%) of respondents reported that their organization takes serious steps at recruiting minority lawyers and 1.9% responded that the steps that were taken were not serious.

When delineated by employment type, public employees were almost half as likely (35.3%) as lawyers in private practice in a law firm (69.6%) to report that their employers have made no effort to recruit minority lawyers. Solo practitioners reported little need for minority recruitment efforts. Over a third of corporate lawyers did not know whether their employer undertook serious efforts to recruit minority lawyers, which is twice the percentage of law firm employees who reported not knowing their firms' hiring practices. Controlling for difference in "don't know" responses, corporate lawyers were almost as likely to report a lack of effort as lawyers in private firms.

Table 4-12: Seriousness of Recruitment Efforts

	Public Sector	Private Practice -Solo-	Private Practice -Firm-	Corporate	Other	Overall
Yes – serious steps	23.8%	3.0%	12.1%	14.3%	21.4%	15.2%
Yes – but not serious steps	2.7%	1.5%	1.6%	0.0%	2.4%	1.9%
No – but it was discussed	2.0%	7.5%	9.5%	4.1%	14.3%	7.6%
No	33.3%	86.6%	60.1%	46.9%	35.7%	53.5%
Don't Know	38.1%	1.5%	16.7%	34.7%	26.1%	21.9%

When asked whether their firms' efforts to recruit and hire minorities were adequate, a large proportion of white (46.9%) and minority (37.5%) Nebraska State Bar Association members responded that their firms' efforts to recruit and hire minorities are adequate. The importance of this response, however, may be overshadowed by the high percentages of white (38%) and minority (37.5%) Bar members who responded that they were unsure if their employer's efforts were adequate.

Hiring

The survey also inquired about employees' perception of hiring practices – specifically, applicant qualifications and employers' hiring preferences. Results indicate that the majority of Bar respondents disagree (49.9%) or strongly disagree (39.5%) that minority lawyers need better qualifications than white lawyers to be hired by their organization.

The Task Force also inquired about perceptions of reverse discrimination. Bar members were asked whether minorities are given hiring preferences over better-qualified whites. Results show that the majority of Bar members responding to the survey either disagree (57.0%) or strongly disagree (24.0%)

with this statement. While the majority of minority respondents (65.5%) strongly disagree that minorities receive hiring preference over better-qualified whites, 19.6% of white respondents strongly disagree with this statement. So, while both groups disagree with the statement, the difference lies in the degree to which whites and minorities disagree. The size of the difference, however, suggests that it falls outside the margin of error and thus is reflective of differences in the population of Bar members, given that the margin of error for white respondents is +/-2.8% and the margin of error for minority respondents is +/-9.5%.

Table 4-13: Minorities Receive Hiring Preference

	Strongly Agree	Agree	Disagree	Strongly Disagree
White	5.6%	13.7%	61.1%	19.6%
Minority	10.3%	3.4%	20.7%	65.5%
Total	6.0%	12.7%	57.2%	24.1%

Minority lawyers in one focus group suggested that instead of a hiring preference, minorities must be even more qualified than their white colleagues. For instance, one lawyer stated that private firms create a double standard for minority lawyers they hire, creating higher qualification standards for their minority hires.

> It was frustrating that many firms believe that if we are going to hire a minority, our level of what we expect is going to be up here for that minority and down here for everybody else in the firm.

In the same focus group discussion, other minority lawyers suggested that law firms should consider factors other than the conventional indicators of success if the firm is serious about making every effort to help minority lawyers and lawyers of underrepresented groups assimilate into the law firm culture.

> …the bottom line is the firms, especially the big firms, are going to have to start seriously looking at the student overall instead of, you know -- to me, most of the standardized tests don't gauge my intelligence, whatsoever. It just gauges my ability to assimilate into the main culture. That's all it does. And the reality is, you know -- I know some of the top students in my class, I would go against them in court any day. I would eat them up and spit them out. But the -- they just want to look at numbers instead of looking at the overall person and whether or not, you know, does that person have the temperament to be a litigator or are they just going to be transactional and stand in a corner and write briefs?

Training

Several states have examined multicultural training and its effects on the court workplace (Louisiana 1996; Massachusetts 1994; New Jersey 1992). The Louisiana report concludes that "the lack of such training often results in communication and perception problems and may result in actual unfairness and bias" (1996, 67). These findings relate to both court participants, in this case the public, and the employee environment. Bar members were asked several questions regarding cultural training issues. The first relates to whether lawyers should be trained to understand the needs of specific minority

groups. The majority of Bar members responding to the survey agreed that lawyers should receive this type of training (61.3%). There was little difference across response groups.

Table 4-14: Lawyers Need Cultural Training

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	757	8.5%	52.8%	32.8%	5.9%
Minority	49	20.4%	40.8%	32.7%	6.1%
Total	806	9.2%	52.1%	32.8%	6.0%

One section of the Nebraska State Bar Association survey asked about multicultural education or training in Nebraska's legal profession. In addition, respondents were asked about the corrective measures they would recommend to enhance the legal profession vis-à-vis racial and ethnic bias in the Nebraska court system. Thirty-eight percent of lawyers responding confirmed that they had participated in multicultural training, with 20.2% reporting that their employer either required or encouraged this training.

Table 4-15: Participation in Multicultural Education or Training

Yes – it is required	11.0%
Yes – it is encouraged	9.2%
Yes – for own reasons	16.8%
No – but it is encouraged	15.5%
No – and it is not encouraged	47.4%

When asked whether additional training would be an advisable corrective measure, a majority of respondents agreed. Once again, differences in race and ethnicity are evident in the response percentages. Beyond the margin of error, minority Bar members are more likely to find that additional training is very important, while white respondents tend to see it as only somewhat important.

Table 4-16: Recommend Cultural Sensitivity Training

	Number	Very Important	Somewhat Important	Not Important
White	717	25.0%	48.3%	26.8%
Minority	49	49.0%	36.7%	14.3%
Total	766	26.5%	47.5%	26.0%

Retention and Development

Professional development opportunities are important to a lawyer's maturation and productivity. These help to create career options, such as judicial selection opportunities, partnership offers, or even to encourage those with political aspirations. Many states that have undertaken statewide investigations have found that there are fewer, and less important, opportunities available for minority lawyers (Florida Supreme Court Racial and Ethnic Bias Commission 1991; Michigan Supreme Court Task Force on

Racial/Ethnic Issues in the Courts 1989). To assess the current situation in Nebraska, Bar members were asked about their job satisfaction and practices leading to professional development and retention: specifically, minorities' access to networks, mentoring relationships, fee-generating appointments, and assignment to advanced tasks.

In general, Nebraska Bar members responding to the survey are either very satisfied (39.9%) or satisfied (44.9%) with their present professional situation. Minority Bar respondents, however, are more likely to be only somewhat dissatisfied or dissatisfied with their present professional situation (32.0%) than are white Bar members (14.3%). These totals fall outside the margin of error, suggesting that this trend is likely found within the whole Nebraska State Bar Association. The level of satisfaction, or in this case dissatisfaction, on the part of minority lawyers suggests the existence of a "harsher environment" for minority lawyers cited by the American Bar Association's Commission on Racial and Ethnic Diversity in its 1998 report (Miles to Go: Progress of Minorities in the Legal Profession 1998). A similar distribution of responses can be found regarding the Nebraska State Bar Association members' perception of networking access. Again, access to networking opportunities is an essential aspect of building collegial connections that lead to career advancement. Thus, differences in these opportunities are of great concern to the Task Force.

Table 4-17: Satisfaction with Professional Situation

	Number	Very Satisfied	Satisfied	Somewhat Dissatisfied	Dissatisfied
White	868	40.7%	45.0%	10.7%	3.6%
Minority	50	26.0%	42.0%	28.0%	4.0%
Total	918	39.9%	44.9%	11.7%	3.6%

When inquiring about access to networks important to their careers, more white Bar members reported being satisfied (78.3%) than minority Bar respondents (54.1%). Again, these numbers fall well outside the margins of error for the groups and likely reflect a difference in opinion existing in the larger population. Almost half of the minority lawyers responding have experienced difficulty accessing these networks. This finding may help to explain why so many more minority lawyers were dissatisfied with their professional situation, and chose to find types of employment outside the legal community or left the state when these opportunities did not present themselves.

Table 4-18: Access to Networking Opportunities

	Number	Very Satisfied	Satisfied	Somewhat Dissatisfied	Dissatisfied
White	836	27.8%	50.5%	17.0%	4.8%
Minority	48	20.8%	33.3%	31.3%	14.6%
Total	884	27.4%	49.5%	17.8%	5.3%

A similar disparity is found in the perception of available mentoring networks. White Bar members responding to the survey were substantially more likely (64.6%) to believe that there is no difference in opportunity between minority and white lawyers to develop mentor relationships. Minority Bar respondents were considerably less likely, outside the margin of error, to believe that there is no difference in opportunity (34.1%). In a focus group discussion, one minority lawyer argued that networking can affect not only new opportunities, but the ability to thrive in one's current position.

> And what happens is once that person gets in the firm, everything is rosy for a while. But at some point because you are -- you don't come from a family where your father is CEO of this company or your father's good friend has this business and you don't have the connections to bring in that business, so eventually the partners stop coming to you and giving you work. So because you don't have the connections and because you have been cut off from the very people who have brought you in, you are isolated in the firm environment and you eventually fail in that environment and have to leave. You have to find an alternative. And that, to me, is a cruel manner in which to treat people, and I see that repeatedly amongst my peers who go to the larger firms. When I say larger, I'm thinking at least 20 or more lawyers.

Table 4-19: More Mentoring Relationship Opportunities

	Number	Minority Lawyers	White Lawyers	No Difference
White	458	5.9%	29.5%	64.6%
Minority	44	4.5%	61.4%	34.1%
Total	502	5.8%	32.3%	62.0%

Minority lawyers responding to the survey are also more likely (44.4%) to believe that black, Hispanic, and Native American lawyers receive fewer fee-generating appointments than do white lawyers (7.5%). Again, these findings fall well outside the margin of error, suggesting that a similar phenomenon exists among the larger population of Nebraska State Bar Association members. This is not an atypical finding. The perception that minority lawyers do not receive an equitable share of fee-generating appointments has also been found in other states (Florida Supreme Court Racial and Ethnic Bias Commission 1991; Michigan Supreme Court Task Force on Racial/Ethnic Issues in the Courts 1989).

Table 4-20: Fewer Fee-Generating Appointments

	Number	Minority Lawyers	White Lawyers	No Difference
White	294	7.5%	4.8%	87.8%
Minority	27	44.4%	11.1%	44.4%
Total	321	10.6%	5.3%	84.1%

One minority lawyer expressed frustration with the appointments made by the court. This lawyer and others in the focus group argued that the race or ethnicity of the assigning judge may affect the appointment process.

> I am not going for court appointments, but the only appointments I get are from black judges or juvenile court judges. And there is one white female judge over in [a court] who will appoint me. But I have never received an appointment from a white male judge even though I have a vast experience in criminal -- as a prosecutor and criminal defense work.

Another minority lawyer expressed a similar view, suggesting that few appointments were available for minority lawyers when the vast majority of judges are white men.

> …I do criminal work. I do civil work….Although I [have appropriate experience I have] never received an appointment to represent a criminal defendant in district court from a white male judge.

Table 4-21: Minority Lawyers Receive Less Complex Tasks

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	444	0.9%	4.3%	62.6%	32.2%
Minority	36	5.6%	25.0%	41.7%	27.8%
Total	480	1.3%	5.8%	61.0%	31.9%

The Task Force also examined the perception that minority lawyers are assigned to less complex tasks or duties, a practice that affects merit and advancement opportunities. While nearly one-third (30.6%) of minority Bar members responding either agreed or strongly agreed that minority lawyers are assigned less complex tasks, markedly fewer (5.2%) white respondents agreed or strongly agreed with this statement. These findings also fall outside the parameters of potential error based on the size of the sample in relation to the population.

Promotion

Previous studies from other states and the American Bar Association, in addition to scholarly research, suggest that minority lawyers experience barriers to professional advancement (Miles to Go: Progress of Minorities in the Legal Profession 1998; California Judicial Committee on Racial and Ethnic Bias in the Courts 1997). For instance, research indicates that minority representation in managerial and partnership positions remains miniscule (Miles to Go: Progress of Minorities in the Legal Profession 1998). To examine the situation in Nebraska, Bar members were asked about their perceived opportunities for advancement. Responses suggest that whites are more likely to respond that they are very satisfied or satisfied (76.8%) with their opportunities for professional advancement than are minorities, who were less likely to respond that they are very satisfied or satisfied with these opportunities (61%). Hence, while 23.2% of white respondents were somewhat dissatisfied or dissatisfied with their career advancement possibilities, 36.0% of minority lawyers identified themselves as dissatisfied with said opportunities.

Table 4-22: Satisfaction with Professional Advancement Opportunities

	Number	Very Satisfied	Satisfied	Somewhat Dissatisfied	Dissatisfied
White	843	31.0%	45.8%	16.6%	6.6%
Minority	50	18.0%	46.0%	20.0%	16.0%
Total	893	30.2%	45.8%	16.8%	7.2%

Bar members were also asked how strongly they believed that all Nebraska lawyers have equal opportunity for professional advancement. Results suggest that minority respondents are substantially less likely to perceive that all Nebraska lawyers have equality in opportunity for professional advancement. Just over 70% of minority Bar members responding to the survey disagreed or strongly

disagreed with the proposition that all Nebraska lawyers have an equal opportunity for advancement. An additional 45.4% of white Bar members disagreed or strongly disagreed with the same statement.

Table 4-23: All Nebraska Lawyers Have Equal Opportunity for Advancement

	Number	Strongly Agree	Agree	Disagree	Strongly Disagree
White	684	7.9%	46.6%	36.8%	8.6%
Minority	48	8.3%	20.8%	33.3%	37.5%
Total	732	7.9%	44.9%	36.6%	10.5%

In a focus group discussion, a black female lawyer mentioned the perception of differential opportunity tracks by suggesting that those in powerful positions are reticent to hire or promote women or minorities, much less female minorities.

> The other thing is being treated the same when you are in the firm or corporation. We don't want to be treated any differently. Don't think they have to treat us and give us some kind of remediation road to the top. We want the same track and the same opportunity as the other lawyers have, and we don't get it. They put some people on the fast track; they put some people on the slow, slow track. I know from experience. It just depends. They just don't see you as having the same skills or -- I don't know if they are not used to, first of all, particularly, black females. They are not used to anything but the old boy network. White females are new. Black females are really new. And I don't know if they think you -- in law school I took the same class you took. I am as prepared as you are; took the same bar. But there seems to be this thing we have to treat him or her a little slower. And then another person comes in, they are on the fast track.

Judicial Selection Process

In 1962, the Nebraska Legislature adopted a constitutional amendment creating a system for the selection of Nebraska's judges not based on elections. Originally, this method of judge selection applied only to the Nebraska Supreme Court and Nebraska district court judges, but now includes the selection of all Nebraska judges.

The process begins when the Nebraska Judicial Resources Commission determines a judicial position to be vacant. The judicial nominating commission for that given area or court is instructed to nominate candidates to fill the position. There are seven nominating commissions for the Supreme Court, six for the Court of the Appeals, three for the Separate Juvenile Courts, one for the Workers' Compensation Court, and 15 to select county and district court judges. Each judicial nominating commission is chaired by either the Chief Justice or a judge of the Nebraska Supreme Court and is comprised of four lawyers and four nonlawyers, with alternates available. The chairperson is not a voting member.

The current makeup of Nebraska judges, shown in the table below, includes four minorities, all blacks. All four serve Douglas County.

Table 4-24: Nebraska Judges*

	Total	Minority	Percentage
Supreme Court Judges	7	0	0.0%
Court of Appeals Judges	6	0	0.0%
District Court Judges	55	0	0.0%
Separate Juvenile Court Judges	10	2	20.0%
County Court Judges	59	2	3.4%
Workers' Compensation Judges	7	0	0.0%
Total	144	4	2.8%

*Federal judges are selected by a different process. None of Nebraska's 10 federal judges are minorities.

Judicial Nominating Commission Member Selection

Since the judicial nominating commissions play a significant role in the judicial selection process, the membership of these commissions becomes important. According to Neb. Rev. Stat. § 24-806 (Cum. Supp. 2002), "lawyer members and alternate lawyer members of any judicial nominating commission shall be members of the bar of the State of Nebraska and shall reside in the judicial district or area of the state served by the commission," with no more than two members being registered with the same political party. Nominations to the lawyer member positions are made by lawyers residing in the district or area to be served by the appointed judge and are collected by the clerk of the Supreme Court. If the number of nominations received is insufficient, then the Nebraska State Bar Association nominates individuals accordingly. A ballot containing the names of those persons nominated is then mailed to the active members of the Nebraska State Bar Association residing in the district or area served by the commission. Those individuals receiving the most votes become members of the judicial nominating commission. Lawyers who have served on a judicial nominating commission that has acted are barred from applying for a nomination by that commission for a period of two years after such service.

The Nebraska governor appoints each of the commission's four laypersons as well as up to three alternate members. The governor makes his or her appointments from a list comprised of individuals who have expressed interest in the position or who have been nominated by their peers. Each appointee must reside in the district or area to be served by the appointed judge and, again, no more than two appointees may be registered members of the same political party. The governor has no set policy as to the racial and ethnic diversity of the nominating commissions, but the governor's administrator in charge of nominations reported that the governor considers factors such as race and ethnicity when making appointments in an attempt to form committees that are representative of the communities they serve.

Racial and Ethnic Makeup of Nebraska's Judicial Nominating Commissions

The Nebraska State Bar Association provided data on the racial and ethnic makeup of the Bar's appointments to Nebraska's judicial nominating commissions for 2001. The racial and ethnic data, however, is only an educated guess, since members are not asked their race or ethnicity. According to the best estimate of the NSBA, minorities comprise just over 2% of the Bar's lawyer member appointments and under 1% of the Bar's alternate lawyer member appointments to the judicial nominating commissions (Figure 4-1 illustrates Nebraska's judicial districts). Bar survey data suggest that minority Bar members

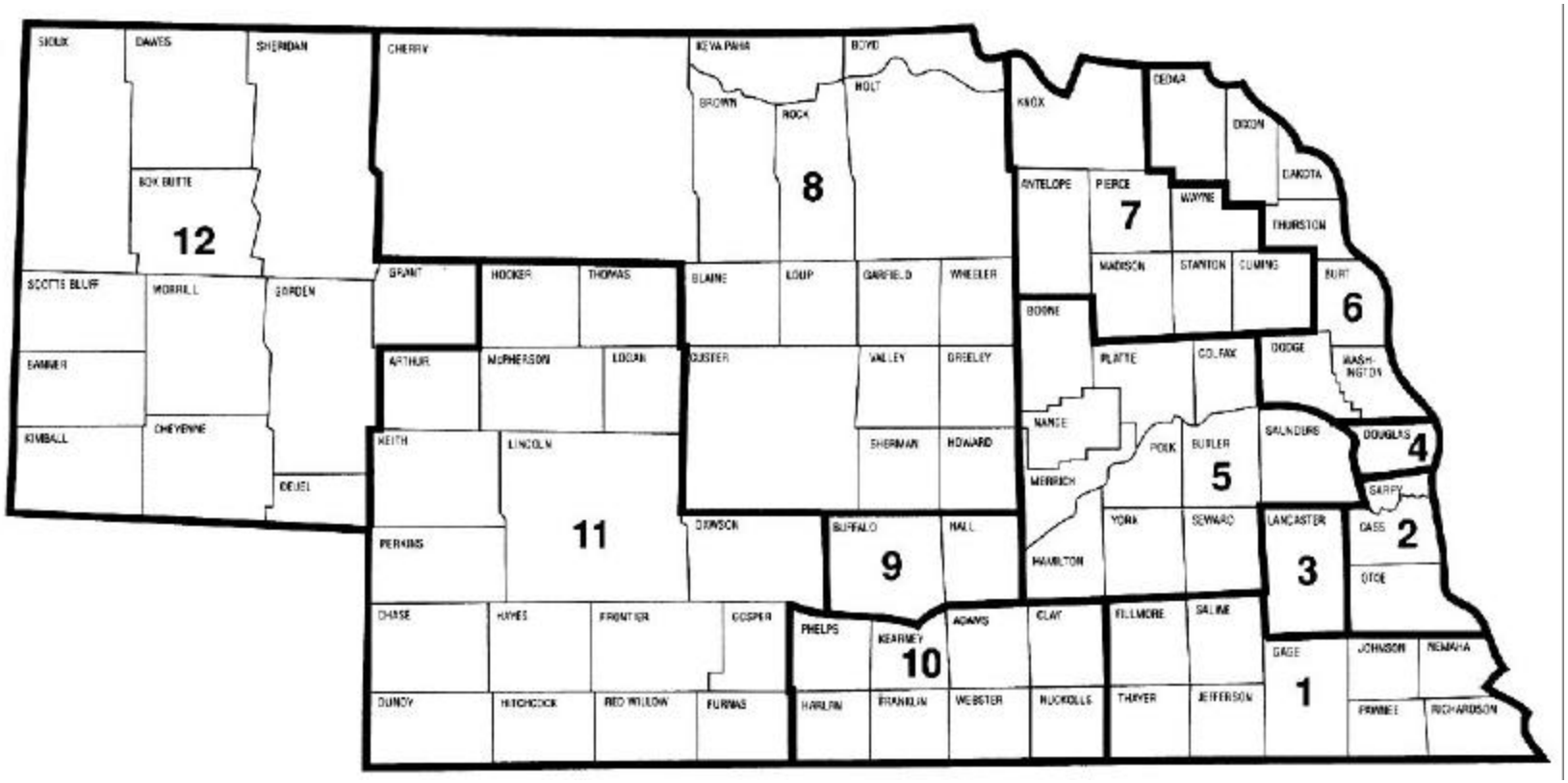
serving on judicial nominating commissions reportedly reside in four counties: Kimball, Douglas, Lancaster and Sarpy (districts 2,3,4, and 12). These numbers indicate that in many counties, minorities are not overlooked for nomination, rather there are no minority lawyers in those counties.

An attempt was also made to collect data on the racial and ethnic makeup of the governor's appointments to the judicial nominating commissions. Unfortunately, an insignificant number of commission members reported their race or ethnicity because the governor's office, like the Bar, does not require individuals to provide this information. Thus, the Task Force does not know, or even have an estimate of, the diversity of the governor's selections.

Table 4-25: Racial and Ethnic Makeup of Judicial Nominating Commissions – Lawyers Only, 2001-2002 –

	Members		Alternates			Members		Alternates	
	Total	Minority	Total	Minority		Total	Minority	Total	Minority
Supreme Court					County/District Courts				
Chief	4	0	4	0	County First	4	0	4	0
First	4	0	4	0	District First	4	0	4	0
Second	4	0	4	0	County/District Second	4	0	4	0
Third	4	0	4	0	County Third	4	1	4	0
Fourth	4	0	4	0	District Third	4	0	4	0
Fifth	4	0	4	0	County Fourth	4	0	4	0
Sixth	4	0	4	0	District Fourth	4	0	4	0
Total	28	0 (0.0%)	28	0 (0.0%)	County/District Fifth	4	0	4	0
					County/District Sixth	4	0	4	0
Court of Appeals					County/District Seventh	4	0	3	0
First	4	0	4	0	County/District Eighth	4	0	4	0
Second	4	0	4	0	County/District Ninth	4	0	4	0
Third	4	0	4	0	County Tenth	4	0	4	0
Fourth	4	1	4	1	District Tenth	4	0	4	0
Fifth	4	0	4	0	County/District Eleventh	4	0	4	0
Sixth	4	0	4	0	County/District Twelfth	4	0	4	0
Total	24	1 (4.2%)	24	1 (4.2%)	Total	64	1 (1.6%)	63	0 (0.0%)
Separate Juvenile					Workers' Comp. Court	4	0	4	0
Douglas	4	0	4	0	Total	4	0 (0.0%)	4	0 (0.0%)
Lancaster	4	1	4	0					
Sarpy	4	0	4	0					
Total	12	1 (8.3%)	12	0 (0.0%)	Cumulative Total	132	3 (2.3%)	131	1 (0.8%)

Figure 4-1: Map of Nebraska's District Court Judicial Districts



Note: The Map of Nebraska's County Court Judicial Districts is the same with the exception of Fillmore County, which is in district 10.

Figure 4-2: Map of Nebraska's Supreme Court and Court of Appeals' Judicial Districts

Judicial Nominating Process

Under the current nominating provisions, judicial nominating commission members can encourage individuals to apply for specific judgeships. *The Judicial Nominating Process*, the commissioner's manual provided by the Nebraska Administrative Office of the Courts, directs: "[Each judicial nominating commissioner's] duty involves not only consideration of the qualifications of individuals whose names are submitted to you during the hearing process, but also the active solicitation and encouragement of those who are eminently qualified to submit their names as nominees."

The Nebraska State Bar Association, as well as the Nebraska Supreme Court, does not make any direct efforts to encourage minorities to apply for judgeships. The Midlands Bar Association, which is the largest and most influential minority Bar Association in the region, informally encourages its members to submit their names for consideration by informing potential candidates of openings and deadlines.

An applicant must meet the statutory qualifications to be considered for a Nebraska judgeship. Generally speaking, a nominee must meet three requirements: 1) a minimum age of 30 years, 2) a member of the Bar and have practiced in Nebraska for five years, and 3) a resident of the judicial district at the time of appointment. Once the judicial nominating commission receives all applications, the names are released to the public and a public hearing is held in order to allow citizens to voice opinions about the applicants. The public hearings are typically held in the largest county of the district or area to be served by the appointed judge. Private interviews with applicants may also be held, followed by a closed vote of all eight voting commission members. An applicant must receive at least five votes in order to have his or her name submitted to the governor. At least two names must be sent for the governor's consideration. The governor then must make his or her selection from the provided list of nominations. If the governor opts not to make a selection within 60 days of receiving the list, the Chief Justice of the Supreme Court makes the final appointment, but this rarely happens.

Discussion

The state's two law schools produce the vast majority of the state's practicing lawyers. Among those who responded to the Bar survey, 86.9% attended either Creighton University School of Law or the University of Nebraska College of Law. On average, each school matriculates approximately 140-160 first-year law students per year. Roughly two-thirds of University of Nebraska College of Law graduates take the Nebraska bar examination, while roughly one-third of the Creighton University School of Law graduates take the Nebraska exam.

In 2002, the two law schools combined for 9.2% minority enrollment. Focusing only on minorities from Nebraska, the University of Nebraska law school minority enrollment closely followed the national figure (66.6%) in 2002 at 61.4% of the expected number (61.4% of 12.7% is 7.8%). Using this same calculation, Creighton's 2002 minority enrollment is 82.4%, which is substantially higher than the expected value (82.4% of 12.7% is 10.5%). Nevertheless, the majority of the law schools' minority enrollees are out-of-state recruits.

Both schools engage in recruitment efforts to attract minority students. Both schools would prefer to enroll, graduate, and place more minority students. The law schools cite the difficulty in attracting minority applicants, especially minority applicants from Nebraska, or those more likely to remain in the state after graduation.

Given the small number of minority applicants, the narrow applicant pool for both Creighton and the University of Nebraska appears at least partially to be a "pipeline" issue. In this context, the term "pipeline" refers to the natural progression of students through the schooling and application process necessary to be admitted to law school. Like every other accredited law school in the country, Nebraska's law schools utilize two standard evaluative measures when considering applicants, the LSAT and grade point average (GPA). In 1996, the average national LSAT score was 153.9 for whites, 148.3 for

Hispanics, and 142.7 for blacks. These differences in scores adversely affect the minority admission rate. Studies by the American Bar Association and other researchers have demonstrated that the LSAT score combined with GPA is the best available predictor of first-year law school performance. LSAT scores account for 16% of the variation in first-year grades. Together, LSAT scores and GPA increase the explanatory value to 24% (Miles to Go: Progress of Minorities in the Legal Profession 1998, 18).

In general terms, increasing minority representation in the state's two law schools is difficult because the pool of applicants is small. For example, in 2001, only 13 blacks who listed Nebraska as their home state took the LSAT. In addition, as with any applicant group, not all minorities who apply possess the academic record or LSAT score to be admitted. Another related issue is that many minorities in the applicant pool are from other states, which reduces the likelihood that they will remain in the state following graduation.

Currently, both law schools take varied steps to attract a more diverse student body, including: 1) utilizing the Law School Admission Council's candidate referral service to identify and target prospective minority students, 2) hosting events targeted to minority students to inform them about the opportunities available in the law and the steps necessary to qualify for law school, 3) sending law school representatives to local and national events targeted at minority recruitment, 4) providing scholarships to attract highly qualified minority students, 5) providing orientation and support programs for minority students who attend law school, 6) supporting black and other minority groups of students, and 7) encouraging contact between minority students and alumni.

While both law schools in Nebraska are interested in increased diversity and seeking members of groups underrepresented in the legal community, efforts by the schools alone to increase the pool of minority applicants are likely to be less successful than would be broader efforts. The Task Force believes it is important to begin the process of informing minority students at young ages – in primary and secondary schools, as well as college – of the opportunities available through a legal education. The Task Force also believes that this process should include significant involvement by segments of the legal community in Nebraska beyond the law schools themselves.

A serious issue confronting efforts to diversify the Nebraska State Bar Association is that potential minority lawyers are lost at each step in the process. For instance, young minority students do not consider the law. Thus, they choose career tracks in high school and college that do not prepare them for law school. Some of those who are prepared do not take the LSAT. For instance, in 2001 when 13 black Nebraska residents took the LSAT, there was little opportunity for the universities to recruit the state's minority residents. Then, those who take the LSAT may not apply to a Nebraska law school. Finally, some of those who apply and are accepted may not choose to attend a Nebraska law school.

Consequently, the law schools actively recruit outside the state in an effort to diversify their student body. However, these students have been less likely to stay in the state following graduation, so they have had little effect on the overall effort to diversify the state's legal profession. Thus, it is likely that any plan to diversify Nebraska's Bar must begin in primary and secondary schools and continue through undergraduate studies in order to increase the number of interested minority Nebraskans in the years prior to seriously pursuing law school admission.

The law schools' ability to recruit, admit, and graduate minority students directly affects the likelihood that Nebraska's legal community will be reflective of the growing diversity in the state. By extension, the success of the law schools to diversity likely will lead to more minority county attorneys and ultimately more minority judges. This, in turn, may help to stem minority distrust in the state's justice system.

Findings

Law Schools

1. Too few Nebraskans who are members of minority groups take the LSAT.

2. Too few members of minority groups apply to Nebraska's law schools.

3. Too few Nebraskans who are members of minority groups matriculate at law schools in Nebraska.

4. Too few members of minority groups matriculate at Nebraska's law schools.

5. Any effort to diversify Nebraska's legal community must be a long-term effort that begins with enlarging the minority applicant and matriculate pools at Nebraska's law schools.

6. Minority and white members of the Nebraska State Bar Association have noticeably different perceptions of the law schools' efforts to diversify their student bodies.

7. There is a perceived and actual need for more diversity in the profession and the law schools. The law schools are a prerequisite for that diversification.

8. It would be beneficial to recruitment and education if the law schools hired more minorities as faculty and administration.

Hiring, Retention, and Promotion

1. Minority and white members of the Nebraska State Bar Association have noticeably different perceptions of career opportunities in the state, including those related to mentoring, retention, and promotion.

2. Nebraska's legal profession is not reflective of the state's racial and ethnic diversity.

3. White and minority members of the Nebraska State Bar Association have differing experiences in finding and retaining employment, which could be reflective of racial and ethnic hiring bias.

4. Minority Bar members believe that there are fewer opportunities in private firms for minority law school graduates and that little effort is made to recruit and retain those minority Bar members who are hired.

5. Minority Bar members believe they have fewer opportunities for mentoring than their white counterparts.

6. Minority Bar members are less satisfied with networking opportunities than their white counterparts.

7. Minority Bar members are less likely to be satisfied with their professional advancement opportunities. Minority lawyers are also far less likely to believe that equal opportunities exist for advancement within the Nebraska legal profession.

Judicial Selection Process

1. Racial and ethnic minorities are underrepresented in Nebraska's judicial system.

2. There is no regular review to evaluate the diversity of the state's judicial nominating commissions.

3. Nebraska's judicial nominating commissions are not reflective of the diversity of the legal community.

4. There exists no data to assess the diversity of the governor's judicial nominating commission appointments.

Recommendations

Law Schools

1. While the pool of potential minority law school students for Nebraska's law schools is relatively small, the law schools should continue and increase efforts to attract minority applicants.

2. The Nebraska State Bar Association and the two law schools in Nebraska should make every effort to identify high school and college students from Nebraska's minority population or those graduating from a Nebraska higher education institution, to inform them about the opportunities available with legal training, and to encourage them to apply to one of the state's law schools.

3. The Nebraska State Bar Association, the Nebraska State Bar Foundation, and the law schools in Nebraska should make an effort to identify minorities who have been out of college for a period of time and may be interested in a legal career, to inform them about legal education and the legal profession, and to encourage them to apply to one of the state's law schools.

4. The Nebraska State Bar Association should work with the law schools and other appropriate groups to attract more minority students.

5. The Nebraska State Bar Foundation should consider assisting in efforts to supplement scholarships and assistance already provided by the law schools to minority students.

6. The Nebraska State Bar Association, the Bar Foundation, Nebraska's two law schools, and the region's ethnic bar associations should work together to provide a coordinated and targeted campaign to minority students of various ages to encourage pursuit of a career in the legal profession.

7. Among other factors, each Nebraska law school should give positive weight in the admissions process to applicants with bilingual skills.

8. The Nebraska State Bar Association and Nebraska Supreme Court should continue to work with the law schools to provide effective orientation, mentoring, and academic support programs.

9. The Nebraska State Bar Association and Nebraska Supreme Court should work more closely with the law schools to promote adequate clerking opportunities for minority law students.

10. Professional ethics classes should cover racial and ethnic bias and discrimination as they affect law practice, treatment of fellow professionals and treatment of court participants.

11. The law schools, the Nebraska State Bar Association, the Bar Foundation, and the Nebraska Supreme Court should include a fair representation of minority participants in law school, Bar and court activities, events and programs.

12. Law schools in Nebraska should annually evaluate the graduation rates among minority law students in determining the scope and effectiveness of the school's academic support programs.

13. Entities that affect access to the profession, such as the law schools, Nebraska State Bar Association, and Nebraska State Bar Commission, should collect and maintain appropriate statistics delineated by race and ethnicity (i.e. placement and employment data).

14. Nebraska's law schools should continue efforts to increase the diversity of their teaching faculty and administration.

Hiring, Retention, and Promotion

1. Law firms and other employers of lawyers should broaden their recruiting and hiring criteria to weigh measures of a candidate's ability in an attempt to increase the likelihood of hiring minority candidates.

2. Law firms and other employers of lawyers should strive to eliminate behaviors that might be perceived as discriminatory or otherwise offensive to minority persons.

3. When possible, law firms and other employers of lawyers should include minority lawyers on interview, selection, and hiring teams.

4. Law firms should participate in clerkship programs that seek to place minority law students as summer associates, with the goal of expanding the range of criteria upon which the law firm may judge the likelihood of the student's ultimate success with the firm.

5. The Nebraska State Bar Association should create a section to address race and ethnicity in the law. Among other activities, this section should develop, maintain, and disseminate a voluntary directory of practicing minority lawyers. These should note the lawyers' location, area of practice, and career goals, to facilitate the lateral hiring of minority lawyers. In addition, this section should develop, maintain, and disseminate a voluntary directory of corporations that retain minority law firms or minority lawyers at majority-owned law firms to handle legal matters for the corporation.

6. The Nebraska State Bar Association should encourage the further development of mentoring programs for lawyers.

7. The Nebraska State Bar Association should consider recommending equal employment opportunity policies for all lawyers in Nebraska.

8. Nebraska court clerks or court administrators should collect and maintain court appointment records delineated by the type of appointment, race and ethnicity of the lawyer or appointed party, and the judge who made the appointment. This data should be reported to the Supreme Court on a periodic basis.

Judicial Selection Process

1. Judicial nominating commissions and the governor should take proactive steps to ensure a state judiciary that is reflective of the communities it serves.

2. The Nebraska Supreme Court and the Nebraska State Bar Association should encourage diversity on the judicial nominating commissions and require that records be kept of the race and ethnicity of commission members.

3. The Supreme Court and the Nebraska State Bar Association should develop and administer

training to improve multicultural competence and recognition of differences for those lawyers and laypersons who serve on judicial nominating commissions.

4. The governor should consider factors such as race and ethnicity when making appointments to the judicial nominating commissions.

5. The Nebraska State Bar Association, the judicial nominating commissioners, and community legal organizations and leaders should strive to identify, encourage and support qualified minority judicial applicants.

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Chapter 5: Research Methods

Unlike the death penalty study commissioned by the Nebraska Legislature in 2000, which intensively examined a small number of crimes over a 27-year period, the Minority and Justice Task Force examined tens of thousands of cases over a 3-year period (Baldus et al., The Disposition of Nebraska Capital and Non-Capital Homicide Cases (1973-1999) 2001). Thus, the Task Force researched outcomes, namely the likelihood of arrest, prosecution, and incarceration, instead of seeking to explain the circumstances specific to each case that could have mitigated these outcomes.

This research choice largely was a consequence of data limitations. Whereas the Nebraska Legislature passed a law allowing death penalty researchers access to the pre-sentence investigation (PSI) report for each death penalty eligible defendant from 1973 through 1999, the Minority and Justice Task Force did not have access to this data source. Hence, there was no way to assess the effect race and ethnicity played on specific prosecutorial decisions or sentencing outcomes. Instead, the Task Force findings illuminate trends based on objective data collected from local, state, and national sources.

The Task Force also agreed that it was important to better understand Nebraskans' experiences in and attitudes toward the justice system. To do this, the Task Force surveyed a random sample of the Nebraska public, as well as groups of lawyers, court personnel, and jurors. Additionally, public hearings were held at eight locations across the state. Finally, focus groups were organized so that members of affected groups could discuss their experiences in law school and the state's courts.

All the data discussed in this report represent a snapshot in time. This especially is the case for attitude surveys. Attitudes change and thus the responses reported in this document should only be seen as an example of the attitudes held at the time of the survey. It is also important to note that the U.S. Census data cited in this report was collected off the U.S. Census website (www.census.gov) from July 2002 to January 2003.

The research plan was funded by a technical assistance grant from the State Justice Institute (SJI). The actual research was funded by a research grant from SJI. The design for each primary data collection effort is discussed below.

Surveys

The Task Force developed and administered four major surveys to collect data from the public, lawyers, court employees, and jurors. The surveys of the Nebraska public and selected jurors from Douglas, Lancaster, and Sarpy Counties featured several questions from a similar study by the National Center of State Courts assessing public trust and confidence in the courts. The surveys of Nebraska State Bar Association members and court personnel included a number of previously "tested" questions from other state reports researching racial and ethnic bias and discrimination in the courts.

Survey of the Nebraska Public

The Task Force based this research model on a similar study undertaken by the National Center for State Courts (NCSC). In the spring of 1999, the NCSC conducted a national survey of 1,826 Americans asking for opinions regarding state and local courts. The effort was designed to assess public trust and confidence in the courts as a way of better understanding the public's perception of state institutions. The Hearst Corporation funded the research, as it had the originating study in 1977, as well as the comparison study in 1983.

The 1999 NCSC survey was undertaken by the Indiana University Public Opinion Laboratory, which conducted preliminary telephone interviews with approximately 1,200 randomly, selected adults from around the country. Then, in an effort to better understand the opinions of the major population groups only marginally represented by the original survey, the NCSC conducted an additional survey of 300 blacks and 300 Hispanics. This "oversample" of racial and ethnic group members allowed the NCSC to accurately assess the opinions of not just one group, whites, but three groups, whites, blacks, and Hispanics. Prior to the oversample, fewer than 100 respondents were black and another 100 were Hispanic. The size of the sample made it unwise to extrapolate to the general public. With the additional respondents in the oversample, however, it is possible to assess the views of all three major groups.

The NCSC identified several objectives, including assessing what "the American public thinks about the performance of state and local courts in key areas such as access to justice…and fairness and equality" (How the Public Views the State Courts 1999, 9). Additionally, the NCSC sought to "provide a model survey that can be used by individual states and localities wanting to undertake a systematic inquiry into what their public thinks about court performance" (Ibid.). The Minority and Justice Task Force duplicated many NCSC questions when surveying the Nebraska public.

From December of 2001 through March of 2002, the University of Nebraska Bureau of Sociological Research (BOSR) conducted 1,473 phone interviews of Nebraska citizens for the Nebraska Annual Social Indicators Survey (NASIS). The Nebraska Minority and Justice Task Force purchased time on this survey to ask 21 questions, many of which duplicated the aforementioned NCSC public trust and confidence questions previously tested in the 1977, 1983, and 1999 analyses.

The Nebraska Minority and Justice Task Force duplicated the NCSC oversample technique in an effort to create a respondent group that reflects the Nebraska public, while giving enough respondents to allow each group to be examined separately. Thus the survey sample falls within the established margin of error parameters for the major groups identified. For instance, the margin of error for all respondents is +/-2.6%. This number changes only slightly when measured as the margin of error for white respondents at +/-2.9%. Given that the percentage of other groups, namely blacks, Hispanics, and Native Americans, is substantially smaller than the overall percentage of white respondents, the margin of error for these groups is substantially higher, although easily within accepted parameters at +/-6.2%.

Survey of Jurors in Douglas, Lancaster, and Hall Counties

Douglas, Lancaster, and Hall County jurors in selected cases were asked to take a survey related to their service. These were selected because they are three of the four most populous Nebraska counties, with the most criminal and civil cases. They are also three of the most diverse Nebraska counties and thus most likely to call minorities for jury service. According to the 2000 U.S. Census, Douglas County is 21.8%, Hall County is 16.3%, and Lancaster County is 11.3% racial and ethnically diverse.

Due to insufficient data, the racial composition of those eligible for jury duty is not known, so it is impossible to compare the survey group to the general population. It likely is the case that the survey respondents are not representative of either the county population, the population of those called for jury duty, or those who served as jurors for these counties for the year 2002. Instead, the responses are included to illustrate the attitudes and experiences of jurors who chose to participate in the survey. Lancaster County jurors were selected based on their participation in one of 24 cases that the Task Force "watched" over the spring and summer of 2002. All Douglas and Hall County respondents called for jury duty from May to July 2002 were sent a survey along with a self-addressed, stamped envelope.

Survey of Court Personnel

The Minority and Justice Task Force sent surveys to each employee of Nebraska's county and district courts, The Nebraska Supreme Court, and Court of Appeals, and probation employees, as well as

each employee of the Nebraska federal court. This includes permanent employees; such as court reporters, bailiffs, record clerks, etc. and contract workers, such as language interpreters. It did not include judges, who, as members of the Nebraska State Bar Association, were sent copies of the Bar survey. The personnel survey was developed by the Personnel Subcommittee of the Minority and Justice Task Force. It includes many previously tested questions asked in either national surveys by the National Center for State Courts, American Bar Association, or other like institution, or state task forces and commissions studying racial and ethnic underrepresentation in the legal community. The survey had 54 questions, including nine requesting demographic data.

Each of the 1,267 surveys mailed March 15, 2002, included a self-addressed, stamped envelope. As of May 1, 2002, approximately 480 surveys had been returned. Another handful were mailed in May, bringing the total return to 494. Thus just over 37% of the population of county, district, state, and Nebraska federal court employees returned the surveys.

Standard statistical methods demonstrate how well a survey of 37% of the Nebraska court employees reflects the opinions of all court employees in the state. Given the size of the return, well over one-third of the population, the concerns about the "representativeness" are greatly diminished. That said, it is possible that the 37% who responded to the survey is different in relevant ways than the population of court employees. For example, people may have responded because they had stronger opinions on these issues than other court personnel or because they were not as busy and simply had more time to fill out the survey form.

It should be noted that this particular problem exists for virtually every kind of survey commonly administered. For example, even if the Task Force had selected a perfectly random sample of 500 court employees, it is very likely that only a percentage of those selected actually would answer the survey, hence there might be some "self-selection bias" in any group of respondents. The same problem would exist for a telephone survey, should the Task Force have chosen that option. Again, even with a perfectly random sample of 500 employees, it is not the case that all those contacted would choose to participate in the survey. Again, this creates a self-selection bias. In each case, these potential biases are accounted for in the "confidence interval," usually set at 95%, which is to say that if the Task Force repeated a sufficiently random sample, in this case the entire population, 100 times, a similar result would be expected in 95 of those trials. By inviting participation from the entire population, there is no administrative selection bias; instead, the only bias lies in those who chose to return the survey. This potential bias is addressed through the 95% confidence interval.

Even if the Task Force could completely overcome a potential self-selection bias, attitudinal difference between the population and response pool are difficult to measure, given the fact that no other similar information has ever been gathered from Nebraska court employees. What can be assessed, however, is the likelihood that the respondent group "looks" like the population. This speaks to the representativeness or what is commonly termed the "reliability" of the group which returned the survey. This is made somewhat more difficult by the fact that district courts have no central administrator to collect and disseminate information. The county courts operate under the administrative direction of the Nebraska Supreme Court through the Administrative Office of the Courts, which collects precise employment records. Thus, even the reasonable ways of assessing randomness of return, county, race, and positional percentages are more like estimations than true comparisons.

The combined estimations of county and district courts returns lend strong support to the representativeness of the sample. While the response rate for Douglas County was somewhat lower than the percentage of the population for that county (19.4% v. 14.6%), this could be a consequence of the high number of interpreters who work in the county, and thus are defined as county employees, yet returned their surveys without identifying a county of employment because they are not full-time employees of any particular court. According to the Administrative Office of the Courts, a majority of interpreter services are provided in Douglas County and a majority of the state's interpreters live in that county. Thus, it likely is the case that the Douglas County low survey response percentage is an aberration, especially in light of the fact that the other combined employee counts suggest that the survey pool closely matches the population. In fact, in the other counties measured for the reliability test in

Table 5-1, 13.6% of court employees work in Lancaster County and the Lancaster survey return rate was 13.2%. Other counties with substantial numbers of employees are Sarpy (5.2%) and Hall (2.8%). Again, the response rate in these counties closely matched the employee percentage: Sarpy (4.9%) and Hall (2.2%).

Table 5-1: County Reliability Tests for Personnel Survey

	Population %	Survey %
Douglas County	19.4%	14.6%
Lancaster County	13.6%	13.2%
Sarpy County	5.2%	4.9%
Hall County	2.8%	2.2%

Based on the statistics reported by the Administrative Office of the Courts and district courts in each Nebraska county, as well as the data collected from the Nebraska federal court, 4.9% of court employees are minorities. Not surprisingly, the minority response rate was significantly higher than the predicted percentage, at 8.1%. This return rate is very similar to that of minority members of the Nebraska State Bar Association, in which the expected return rate was 2.4%, but the actual response rate was over 5%. It should be noted, however, that even with a substantially higher minority return rate the subgroup is so small that it will not adversely affect the overall comparative ability of the survey. Again, this deviance from a perfectly randomized sample would fall within a 95% confidence interval. Thus, instead of adversely affecting the data, the high percentage of minority response allows the Task Force to compare white respondents to those of another race or ethnicity because the "white" group is unaffected by the percentage return in any other group.

The Task Force is cognizant of the possibility that those who chose to respond may not hold views representative of the remaining population. This is especially true when small numbers of respondents can influence substantially the percentage for a particular response. For example, when responses are broken out into multiple categories (such as strongly agree, agree, disagree, and strongly disagree), the small number of respondents may influence the analysis for those categories in a way that is not representative of the population.

A 494-person survey of a population of 1,267 puts the margin of error at +/-3.5% for the entire sample. Since the vast majority of respondents are white, almost 92%, the margin of error for white respondents is basically the same as the margin of error for the entire sample, at +/-3.6%. The margin of error for minority respondents is substantially higher at +/-9.9%, despite the fact that 40 of 67 minority court employees returned the survey. This is because margin of error takes into account the raw number of population as well as the raw number of respondents. Thus, a handful of minority respondents could substantially affect the percentages, while an additional couple of white respondents would not affect the totals substantially.

In effect, margin of error creates a range, thus representing the degree of accuracy claimed. For this survey, when reporting a response from all respondents, the range is +/-3.5%. When reporting a response from white respondents, the range is +/-3.6%. When reporting minority respondents only, the range is +/-9.9%. This means that when the study reports a number for the entire group (for example 50%), there is a 95% confidence that this group falls somewhere between 46.5% and 53.5%. It is impossible to say that the true level is actually 50% but a range around 50%. Similarly, where the study reports a number for minority respondents (for example 50%), an acceptable level of confidence is that the true percentage for that group is likely to fall somewhere between 40.1% and 59.9%. Every number reported in this study should be viewed not as the single number reported but as a range. It is neither statistically correct, nor responsible, to treat that number as the "true" response; rather, percentages should be treated as the midpoint of a range within which the true number falls.

Often in this report, the responses of one group (for example, white respondents) are compared to those of another group (for example, minority respondents). It is important to keep these error ranges in mind when making these comparisons. If, for example, 25% of white respondents answered "yes" to a particular question, but only 15% of minority respondents did, there might appear to be a "significant" difference of opinion on that issue. But statistically speaking it can be predicted that between 21.5% and 28.5% of white respondents will answer "yes" and somewhere between 5.1% and 24.9% of minority respondents will answer "yes." Since the ranges overlap between 21.5% and 24.9%, it is impossible to say with a sufficient level of confidence that there is a true difference between the responses of the population. In most of the examples mentioned in this and sections where the court employees' survey is discussed, however, the response differences are large enough to say with confidence that there is a true difference in the opinions of different groups.

Survey of Nebraska State Bar Association Members

Through a grant from the Nebraska State Bar Association, the Minority and Justice Task Force sent a survey to each active Bar member living in the state, totaling 4,754, on March 1, 2002. Respondents were given until April 5 to return the completed survey in the self-addressed, stamped envelope included in the mailing. By April 5, 960 responses had been received. One letter of reminder was sent via email. Another 20 responses were received by April 20, bringing the total to 980, or 20.6% of the survey population.

The survey was developed by the Legal Professions Subcommittee of the Minority and Justice Task Force. It includes many previously tested questions asked in either national surveys by the National Center for State Courts, American Bar Association, or other like institution, or state task forces and commissions studying racial and ethnic underrepresentation in the legal community. The survey had 64 questions, including 10 requesting demographic data.

Standard statistical methods help to illustrate how well this survey of 21% of the Nebraska State Bar Association reflects the opinions of all members of the Bar. One concern might be that the 21% who responded to the survey is different in relevant ways than the overall population of the Bar. People who responded to the survey may have somewhat different views on the questions than members of the Bar generally. Consequently, it is unknown whether the survey results represent views of the overall group (i.e. all in-state members of the NSBA).

In order to address these concerns about how representative the survey results are, the Task Force has assessed the extent to which the respondent group "looks" like, or is representative of, the population through an examination of several parametric measures. This speaks to the representativeness of those who returned the survey. The measures available to the Task Force are county of practice, years of practice, judicial status, age, and gender. Another variable examined is respondent race, although the population percentage is purely an estimate, based on both partial data from the Bar Association and the 2000 U.S. Census.

The results of reliability tests show that the responses to the survey compare reasonably well to the demographic parameters available to the Task Force. Lawyers in urban areas tend to be slightly underrepresented in the survey respondent pool. In the largest urban counties, like Douglas and Lancaster, response rates were 9% and 7% below predicted rates, based on the percentage of Bar members living in those counties. Lawyers from rural counties, in general, tend to be slightly overrepresented in the survey. Beginning with the much lower base rates, Table 5-2 shows overrepresentation in rural counties ranging from 15% in Scottsbluff County to over 60% in Adams County. However, Table 5-2 demonstrates that, geographically, survey respondents tend to reasonably represent the distribution of lawyers in the state.

For instance, just less than 48% of all Nebraska State Bar Association members live in Douglas County. The percentage of survey respondents from Douglas County was 44%. Just over 27% of all Bar members live in Lancaster County and the Bar survey received a 25% response rate from Lancaster

County. Other counties with larger Bar membership include Sarpy (2.4%), Hall (2.3%), and Scottsbluff (1.9%). Again, the response rate in these counties closely matched the Bar membership percentage: Sarpy (2.2%), Hall (2.7%), and Scottsbluff (2.2%).

Table 5-2: County Reliability Tests for NSBA Survey

	Population %	Survey %
Douglas County	48.9%	44.4%
Lancaster County	27.2%	25.2%
Sarpy County	2.4%	2.2%
Hall County	2.3%	2.7%
Scotts Bluff County	1.9%	2.2%
Buffalo County	1.8%	2.4%
Madison County	1.6%	2.1%
Adams County	1.1%	1.8%

In addition, criteria other than county of employment were assessed as well. As Table 5-3 suggests, the percentage of regular members who were female, respondents with five or fewer years in the practice of law (junior members), members 75 years of age or older (senior members), and judicial respondents, all closely match that of the prevailing population. The only category showing a major difference between the population and the survey pool is that of minority respondents.

While the Nebraska State Bar Association does not ask each member's race and ethnicity, a subset of the Bar Association voluntarily provides this information. From this group, the Nebraska State Bar Association estimates that 2.4% of the Bar membership are minorities. In addition, the U.S. Census estimates that the percentage of minority lawyers in the state of Nebraska is 2.5%. Thus, there is reason to believe that the response rate of minority Bar members is substantially higher than the predicted percentage of minority Bar members in the population.

Table 5-3: Other Reliability Tests for NSBA Survey

	Population %	Survey %
Regular Active Members	82.6%	83.4%
Female Members	24.3%	26.6%
Junior Members	11.7%	11.2%
Judicial Members	3.4%	3.1%
Senior Members	2.3%	2.3%
Minority Members	2.4%*	5.4%

*Minority NSBA membership is estimated from the Bar Association at 2.4% and the 2000 U.S. Census estimates the minority population at 2.5%.

That said, the high response rate within such a small subgroup likely would not adversely affect the overall findings. The higher than predicted minority response rate may be explained by a greater interest in the subject and the experiences of minority respondents, similar to the overrepresentation of women on a gender fairness survey conducted by the Gender Fairness Task Force in 1994. However, the high percentage of minority response allows the Task Force to compare white respondents to those of another race or ethnicity because the "white" group is unaffected by the percentage return in any other group.

Despite the fact that this survey was of the entire Bar Association and not a sample survey, the standard probability estimates and margin of error calculations apply because the return only represents a sample of the larger group regardless of how it was selected. In the complete sample, the Task Force received a 21% response, with approximately 1,000 respondents, which means the margin of error is +/-2.8%. Since the vast majority of respondents are white, almost 95%, the margin of error for white respondents is nearly the same as the margin of error for the entire sample, at +/-2.8%. The margin of error for minority respondents is more difficult to calculate because the population total is uncertain, but based on the Bar and U.S. Census estimates, the margin of error would be +/-9.5% (Manheim and Rich 1995, 428-429).

This range represents the degree of accuracy claimed based on population. For this survey, when reporting a response from all respondents, the range is +/-2.8%. When reporting a response from white respondents, the range is also +/-2.8%. When reporting minority respondents only, the range is +/-9.5%. This means that when the study reports a number for the entire group (for example 50%), there is a 95% confidence level that this group is likely to fall somewhere between 47.2% and 52.8%. It is impossible to say with an acceptable level of confidence that the true level is actually 50% but a range around 50%. Similarly, where the study reports a number for minority respondents (for example 50%), an acceptable level of confidence is that the true percentage for that group is likely to fall somewhere between 40.5% and 59.5%. Every number reported in this survey discussion should be viewed not as the single number reported but as a range. It is neither statistically correct nor responsible to treat that number as the "true" number for the group; rather percentages should be treated as the midpoint of a range within which the true number falls.

Often in this report, the responses of one group (for example, white respondents) are compared to those of another group (for example, minority respondents). It is important to keep these error ranges in mind when making these comparisons. If, for example, 25% of white respondents answered "yes" to a particular question, but only 15% of minority respondents did, there might appear to be a "significant" difference of opinion on that issue. But statistically speaking it can be predicted that between 22.2% and 27.8% of white Bar members will answer "yes" and somewhere between 5.5% and 24.5% of minority Bar members will answer "yes." Since the ranges overlap between 22.2% and 24.5%, it is impossible to state with a sufficient level of confidence that there is a true difference between the responses and the population. In most of the examples mentioned in this report where the Nebraska State Bar Association survey is discussed, however, the response differences are large enough to state with confidence that there is a true difference in the opinions of different groups.

Testimony

The Task Force received testimony from many different sources. Nebraska citizens participated in public hearings at eight locations around the state. The public were also encouraged to submit written testimony. Space was provided for written comments on each of the surveys discussed above. Finally, the Task Force undertook focus groups with affected groups, including minority law students and minority lawyers.

Public Hearings

The Minority and Justice Task Force held eight public hearings in five cities across Nebraska between January and May of 2002. Hearing participants were encouraged to provide public testimony on issues relevant to race and ethnicity in the courts. Persons not willing to make public statements were

encouraged to give private, one-on-one testimony, also provided for at each public hearing site. The Task Force also solicited written testimony from those unable to attend public hearings.

The public hearings were publicized in several ways. First, press releases were sent to city newspapers as well as radio and television stations in each region where a hearing was planned. Several news outlets held interviews with Task Force representatives to discuss the mission of the hearings and explain the logistics for testifying. The Task Force also sent invitations to community leaders and relevant groups throughout the state in an attempt to inform the largest possible constituency about each upcoming hearing. This list included all district and county court employees, the Nebraska State Bar Association and Midlands Bar Association membership, Nebraska Legal Services Corporation, Nebraska Appleseed Center, Nebraska state senators, city council members, university groups and professors, members of the business community including Hispanic and black business owners, clergy of minority populated churches, local NAACP chapters, the Urban League, state agencies, and local chambers of commerce, among others.

Table 5-4: Public Hearing Schedule and Locations

City	Date	Location	Approximate Attendance
Lincoln	January 22, 2002	Malone Center	110
Omaha	February 20, 2002	Guadalupe Center	40
Omaha	February 27, 2002	Teacher Administration Building	65
Scottsbluff	March 26, 2002	Guadalupe Center	30
Lexington	April 14, 2002	St. Ann's Church Gymnasium	100
Grand Island	May 1, 2002	Walnut Middle School	45
Macy	May 6, 2002	Four Hills of Life Wellness Center	25
Omaha	May 7, 2002	Omaha North High School	75

Public hearing sites were selected based on the size and diversity of the population. The state's most populated city, Omaha, was site to three public hearings at three separate locations over a 75-day period. One hearing was held in both Lincoln and Grand Island, the state's second and fourth most populated cities. Scottsbluff, Lexington, and Macy were selected for their racial and ethnic diversity and that of the region.

Table 5-5: Diversity of Communities Where Public Hearings Were Held

City	Total Population	Minority Population	Percentage Minority
Omaha	390,007	96,131	24.7%
Lincoln	225,581	27,494	12.2%
Grand Island	42,940	8,980	18.6%
Scottsbluff	14,732	4,184	28.4%
Lexington	10,011	5,394	53.9%
Macy	956	942	98.5%

Source: 2000 U.S. Census.

In addition to verbal testimony, written testimony also was solicited. The Task Force publicized the opportunity to submit written testimony in mainstream and nontraditional publications as well as noting it in the promotional campaign for each public hearing. In addition, the Nebraska Department of

Correctional Services posted announcements of each public hearing and calls for written testimony in each of the facilities it manages.

Approximately 175 people gave public testimony and 25 attendees gave private testimony at a public hearing site. Another 60 testimonial letters were sent to the Task Force, over 40 of which came from correctional facilities. The first written testimonial was received in January 2002 while the final testimonial was received in July 2002. Approximately 25 of 260 testimonials are quoted in the final document.

The public hearing and written testimony cited in this report represents the opinions of those who provided it and are not necessarily reflective of the opinions held by all Nebraskans or those of persons with the same racial or ethnic heritage. Instead, these statements are illustrative of the observations, attitudes, and convictions of the individuals who testified at the hearings or submitted their testimony in writing.

Focus Groups

The focus groups were held in September of 2002. Participants included 14 law students, seven from the University of Nebraska College of Law and seven from the Creighton University School of Law. Five identified themselves as black or biracial, five as Hispanic, three as Asian, and one as Arab-American. The lawyer focus group had seven participants, ranging from nine to 23 years' experience in Nebraska's legal community. Five of the lawyers identified themselves as black or biracial, and the other two were Hispanic. Several focus group comments are included in this section. It should be noted, however, that these attitudes do not necessarily reflect the attitudes of all minority law students or minority lawyers, but instead are examples of attitudes that exist within those groups.

Both focus groups were conducted by the Task Force research director, with a court reporter transcribing the testimony. The research director, with the advice of the Legal Professions Subcommittee of the Minority and Justice Task Force, chose the testimony to include in the report.

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Summary of Recommendations

Access to Justice

Public Perception

1. Court employees, including administrators, judges, lawyers, and court personnel, should be made aware of the perceptions outlined in this study and the effects these perceptions have on the courts.

2. Significant efforts should be taken by the Nebraska State Bar Association, Nebraska Supreme Court, and Nebraska policymakers to promote legal services for Nebraska's indigent. Specifically, the Nebraska State Bar Association should continue to actively encourage private lawyers to provide pro bono or reduced-fee services to those in need.

3. Sources should be found to fund a public service announcement (PSA) campaign designed at increasing awareness of and confidence in the courts, especially among minority groups.

Interpreter Services

1. The Nebraska Administrative Office of the Courts should collaborate with schools of higher education to design a curriculum appropriate for pre- and post-certification education for interpreters.

2. The Administrative Office of the Courts should create a "screening phase" for certification applicants, so as to increase the likelihood of passage before extensive funds are spent on testing.

3. The Administrative Office of the Courts should seek additional funds for training through federal and nonprofit granting institutions.

4. The Administrative Office of the Courts should actively encourage those desiring to take certification tests in languages not currently offered in Nebraska to take those tests in other National Consortium for Racial and Ethnic Fairness in the Courts states that offer those particular tests so as to reduce costs in Nebraska.

5. The Administrative Office of the Courts should require records to be kept and summarized as to the number of requests made for interpreter services in each Nebraska county along with a breakdown of the number of times each language is requested.

6. Judges should be required to ask noncertified interpreters if they have read and agree to adhere to the Code of Professional Responsibility for Interpreters.

7. A policy should be adopted requiring that all judicial forms, documents, and videos used in court proceedings be drafted in English and translated into such additional languages as the Administrative Office of the Courts approves. All such translations should be made by qualified translators and approved by the Administrative Office of the Courts.

8. Interpreters should be encouraged to acquire an understanding of cultural variations that accompany language differences, so as to better assist non-English-speaking clients.

9. The Nebraska Supreme Court and Administrative Office of the Courts should consider hiring interpreters on a full time basis, where appropriate, in order to attract more and better interpreters.

10. The Administrative Office of the Courts should actively seek to partner with other governmental agencies to hire full time or to "share" language interpreters, where a need justifies such a partnership.

11. The Administrative Office of the Courts should continue to actively recruit bilingual staff and compensate them accordingly.

12. The Nebraska Supreme Court should require that county and district courts provide court-paid interpreter services to indigents outside of court in order to communicate with their court-appointed lawyers.

13. The Administrative Office of the Courts should create a review system to rate frequently used uncertified interpreters and periodically make unannounced reviews of uncertified interpreters in the courtroom setting.

14. The Administrative Office of the Courts should provide diversity and cultural training for all judges and court employees, both at the time of their hiring and at interval periods.

15. A simple explanation of both civil and criminal court processes should be prepared in Spanish and other appropriate languages. This could be in written or video form.

16. Local Bar associations and courts should engage in outreach programs with leaders of local immigrant and culturally diverse communities to help educate their members as to the role and processes of the Nebraska court system.

17. The Administrative Office of the Courts should develop a Nebraska court-approved voir dire, such as the one developed by the NCSC, for use by judges to determine the qualifications of an uncertified interpreter.

Nebraska Juries

1. Juries should be more reflective of the diversity of the community, and source lists for juries should be expanded to ensure such diversity.

2. Reimbursements should be made to low-income jurors for child care or elder care expenses incurred because of jury service.

3. The Nebraska Secretary of State should require that all persons registering to vote identify their race and ethnicity so that proper records can be kept of jury pool composition.

4. Jury commissioners should be required to collect and preserve racial and ethnic information on all persons selected for jury duty. This data should be reported yearly to the Administrative Office of the Courts.

5. Jury commissioners should be required to collect and preserve racial and ethnic information on all persons granted excuses and deferrals, reporting for jury duty, selected for voir dire panels, and seated on juries at both the county and district level. This data should be reported yearly to the Administrative Office of the Courts.

6. County and district court clerks should be required to collect and preserve racial and ethnic information on all impaneled jurors. This data should be reported yearly to the Administrative Office of the Courts.

7. Nebraska statute should require that jury pool lists be refreshed annually on a set date determined by the Administrative Office of the Courts.

Criminal and Juvenile Justice

Criminal

1. The Nebraska Supreme Court should adopt policies that maximize the use of the necessary demographic data in court and probation records systems so that the delivery of services provided by the courts and probation can be analyzed to determine whether there are any effects on the delivery of those services caused by race or ethnicity.

2. To the maximum extent possible, automated systems operating in law enforcement, prosecution, courts, probation, and corrections should be designed so that data can be shared with other systems. In places where that integration of automated systems is not yet possible, the prosecutor should be required to prepare a "criminal cover sheet" for all county and district court criminal cases. These cover sheets should be standardized to include such information as the age, race, and ethnicity of the defendant, and the original charge or charges.

3. The Nebraska Supreme Court should periodically direct an analysis of the services provided by the courts of this state and by probation (such as setting of bond, sentencing, probation revocations, etc.) to see if there are any effects on the delivery of those services caused by race or ethnicity.

4. An appropriate commission or task force should be created to investigate the disproportionately high minority arrest figures among Nebraska's law enforcement agencies. In addition, Nebraska law enforcement agencies (police, sheriff, state patrol) under the leadership of the Nebraska Crime Commission or some other suitable state agency should make a concerted and sustained effort to determine whether race or ethnicity plays an improper role in arrests, and, if so, take specific and concrete action to address the matter.

5. The Administrative Office of the Courts should coordinate the collection of data, educate court participants, and continue to research areas of potential bias in the court, in order to create continuous oversight of the Nebraska court system.

6. Nebraska should adopt and enforce mandatory standards for the operation of county indigent defense systems that comply with the American Bar Association's "Ten Principles of a Public Defense Delivery System."

7. Nebraska should investigate the advisability of fully implementing a system based not on monetary bond but on conditions of pretrial release that would reasonably assure the appearance of the defendant and safety of the community.

8. The Nebraska Legislature should establish guidelines to ensure equal access to adult diversion programs and to assure the confidentiality of information concerning participants in diversion programs.

Juvenile

1. Nebraska should continue efforts to identify and eliminate the barriers that lead to disproportionately high minority youth arrests and incarceration relative to their percentage in the population and compared to their white counterparts.

2. The Nebraska Legislature should establish guidelines to ensure equal access to juvenile diversion programs and to assure the confidentiality of information concerning participants in diversion programs.

3. Nebraska should continue efforts to identify and reduce the barriers to full and equal access to juvenile diversion.

Perception

1. The Nebraska Supreme Court and the Nebraska State Bar Association should develop and administer training to improve multicultural competence and recognition of differences for judges and all other court personnel. In addition, other agencies not under the management or control of the Nebraska Supreme Court should develop and conduct similar training. These agencies would include, but not be limited to, public defenders, prosecutors, and law enforcement agencies.

Court Personnel

1. The court systems and all individuals hiring court personnel should adopt aspirational goals to have a workforce that is reflective of a diverse community. Responsibility for attaining such objectives should be delegated to appropriate administrators and job performance evaluations should include a review of individual performance in attaining such goals.

2. The court systems should adopt, publish and enforce comprehensive policies for assuring equal opportunity and recruitment of minority employees. Monitoring systems should be established at all levels and administered to assure adherence to such policies to ensure that diversity commensurate with that of the community is being achieved.

3. A formal discrimination complaint procedure should be developed by all court systems and communicated to all employees of the court systems in personnel manuals given to all employees and on announcements posted in court offices.

4. A formal education process should be designed, developed and repeated periodically by the Nebraska Supreme Court to address differences in perception between white and minority employees.

5. All Nebraska court employment specifications and policies should be reviewed and updated to encourage bilingual skills and multicultural knowledge where such capabilities would better serve the public, and such skills should be appropriately compensated.

6. The Nebraska court systems should have, as a performance goal, an ongoing effort to recruit qualified minority applicants for managerial and supervisory positions.

7. A variety of means should be used to inform minority candidates of employment opportunities. These means should include, but not be limited to, multilingual advertisements placed in ethnic centers, churches, and other locations where minorities will be reached. All advertisements should emphasize that the court systems are equal opportunity employers.

Legal Profession

Law Schools

1. While the pool of potential minority law school students for Nebraska's law schools is relatively small, the law schools should continue and increase efforts to attract minority applicants.

2. The Nebraska State Bar Association and the two law schools in Nebraska should make every effort to identify high school and college students from Nebraska's minority population or those graduating from a Nebraska higher education institution, to inform them about the opportunities available with legal training, and to encourage them to apply to one of the state's law schools.

3. The Nebraska State Bar Association, the Nebraska State Bar Foundation, and the law schools in Nebraska should make an effort to identify minorities who have been out of college for a period of time and may be interested in a legal career, to inform them about legal education and the legal profession, and to encourage them to apply to one of the state's law schools.

4. The Nebraska State Bar Association should work with the law schools and other appropriate groups to attract more minority students.

5. The Nebraska State Bar Foundation should consider assisting in efforts to supplement scholarships and assistance already provided by the law schools to minority students.

6. The Nebraska State Bar Association, the Bar Foundation, Nebraska's two law schools, and the region's ethnic bar associations should work together to provide a coordinated and targeted campaign to minority students of various ages to encourage pursuit of a career in the legal profession.

7. Among other factors, each Nebraska law school should give positive weight in the admissions process to applicants with bilingual skills.

8. The Nebraska State Bar Association and Nebraska Supreme Court should continue to work with the law schools to provide effective orientation, mentoring, and academic support programs.

9. The Nebraska State Bar Association and Nebraska Supreme Court should work more closely with the law schools to promote adequate clerking opportunities for minority law students.

10. Professional ethics classes should cover racial and ethnic bias and discrimination as they affect law practice, treatment of fellow professionals and treatment of court participants.

11. The law schools, the Nebraska State Bar Association, the Bar Foundation, and the Nebraska Supreme Court should include a fair representation of minority participants in law school, Bar and court activities, events and programs.

12. Law schools in Nebraska should annually evaluate the graduation rates among minority law students in determining the scope and effectiveness of the school's academic support programs.

13. Entities that affect access to the profession, such as the law schools, Nebraska State Bar Association, and Nebraska State Bar Commission, should collect and maintain appropriate statistics delineated by race and ethnicity (i.e. placement and employment data).

14. Nebraska's law schools should continue efforts to increase the diversity of their teaching faculty and administration.

Hiring, Retention, and Promotion

1. Law firms and other employers of lawyers should broaden their recruiting and hiring criteria to weigh measures of a candidate's ability in an attempt to increase the likelihood of hiring minority candidates.

2. Law firms and other employers of lawyers should strive to eliminate behaviors that might be perceived as discriminatory or otherwise offensive to minority persons.

3. When possible, law firms and other employers of lawyers should include minority lawyers on interview, selection, and hiring teams.

4. Law firms should participate in clerkship programs that seek to place minority law students as summer associates, with the goal of expanding the range of criteria upon which the law firm may judge the likelihood of the student's ultimate success with the firm.

5. The Nebraska State Bar Association should create a section to address race and ethnicity in the law. Among other activities, this section should develop, maintain, and disseminate a voluntary directory of practicing minority lawyers. These should note the lawyers' location, area of practice, and career goals, to facilitate the lateral hiring of minority lawyers. In addition, this section should develop, maintain, and disseminate a voluntary directory of corporations that retain minority law firms or minority lawyers at majority-owned law firms to handle legal matters for the corporation.

6. The Nebraska State Bar Association should encourage the further development of mentoring programs for lawyers.

7. The Nebraska State Bar Association should consider recommending equal employment opportunity policies for all lawyers in Nebraska.

8. Nebraska court clerks or court administrators should collect and maintain court appointment records delineated by the type of appointment, race and ethnicity of the lawyer or appointed party, and the judge who made the appointment. This data should be reported to the Supreme Court on a periodic basis.

Judicial Selection Process

1. Judicial nominating commissions and the governor should take proactive steps to ensure a state judiciary that is reflective of the communities it serves.

2. The Nebraska Supreme Court and the Nebraska State Bar Association should encourage diversity on the judicial nominating commissions and require that records be kept of the race and ethnicity of commission members.

3. The Supreme Court and the Nebraska State Bar Association should develop and administer training to improve multicultural competence and recognition of differences for those lawyers and laypersons who serve on judicial nominating commissions.

4. The governor should consider factors such as race and ethnicity when making appointments to the judicial nominating commissions.

5. The Nebraska State Bar Association, the judicial nominating commissioners, and community legal organizations and leaders should strive to identify, encourage and support qualified minority judicial applicants.

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Survey of the Nebraska Public

In the following questions, we will ask about your experiences and opinions regarding the Nebraska justice system. Please select the response that best represents your experiences or opinions.

(Screening Question) Have you ever been in a Nebraska court of law?

1 Yes
2 No

(If answer is "Yes," then answer the following five questions. If answer is "No," then proceed to question #6)

1. Have you ever been called for jury duty in either a state or federal proceeding in the state of Nebraska?

1 Yes
2 No

2. If yes, have you ever actually served on a Nebraska jury?

1 Yes
2 No

3. Have you ever been a defendant in a state or federal criminal case in the state of Nebraska?

1 Yes
2 No

4. Have you ever been a litigant (the person suing or being sued) in a lawsuit seeking money in the state of Nebraska?

1 Yes
2 No

5. Have you ever been called to testify in a criminal or civil case in the state of Nebraska?

1 Yes
2 No

6. For each of the following, please indicate whether you have a "Great Deal" "Some" "Only a Little" or "No" trust:

Your Local Police
The University of Nebraska
The U.S. Supreme Court
Nebraska's Unicameral Legislature
Courts in Your Community
The U.S. Congress
Lawyers in Your Community
The Nebraska Supreme Court

Appendix A

Section I. Please indicate the degree to which you agree or disagree with the following statements.

7. In Nebraska, how much money you have affects the quality of legal representation.
Strongly Agree
Agree
Somewhat Agree
Somewhat Disagree
Disagree
Strongly Disagree

8. It is important that juries reflect the racial and ethnic makeup of the community.
Strongly Agree
Agree
Somewhat Agree
Somewhat Disagree
Disagree
Strongly Disagree

9. In Nebraska, a member of a minority group who has a legitimate legal claim will be reluctant to file a lawsuit.
Strongly Agree
Agree
Somewhat Agree
Somewhat Disagree
Disagree
Strongly Disagree

10. New immigrants to the state are not as likely to make use of the court system as those who have lived in Nebraska for a long time.
Strongly Agree
Agree
Somewhat Agree
Somewhat Disagree
Disagree
Strongly Disagree

11. In Nebraska, most juries are not representative of the community.
Strongly Agree
Agree
Somewhat Agree
Somewhat Disagree
Disagree
Strongly Disagree

12. In Nebraska, minority litigants can afford quality representation from a lawyer.
Strongly Agree
Agree
Somewhat Agree
Somewhat Disagree
Disagree
Strongly Disagree

13. In Nebraska, courts are "out-of-touch" with what's going on in their communities.
Strongly Agree
Agree
Somewhat Agree
Somewhat Disagree
Disagree
Strongly Disagree

14. In Nebraska, criminal justice officials treat offenses committed by minority defendants against minority victims more leniently than they would if the victims were white.
Strongly Agree
Agree
Somewhat Agree
Somewhat Disagree
Disagree
Strongly Disagree

Section II. Please indicate the degree to which you feel the Nebraska Justice system treats the following groups better or worse *than Nebraskans in general*.

15. In Nebraska, what kind of treatment do Hispanics and Latinos receive from the courts?
Far Better
Somewhat Better
Same
Somewhat worse
Far Worse

16. In Nebraska, what kind of treatment do Whites receive from the courts?
Far Better
Somewhat Better
Same
Somewhat worse
Far Worse

17. In Nebraska, what kind of treatment do African Americans receive from the courts?
Far Better
Somewhat Better
Same
Somewhat worse
Far Worse

18. In Nebraska, what kind of treatment do Native Americans receive from the courts?
Far Better
Somewhat Better
Same
Somewhat worse
Far Worse

19. In Nebraska, what kind of treatment do non-English speakers receive from the courts?
Far Better
Somewhat Better
Same
Somewhat worse
Far Worse

Section III. Please indicate the degree to which the Nebraska court system is fair.

20. In general, how fair is the Nebraska court system to all Nebraskans?
Fair
Somewhat Fair
Somewhat Unfair
Unfair

21. Now consider just Nebraska's racial and ethnic minorities: how fair do you think the court system is to non-whites?
Fair
Somewhat Fair
Somewhat Unfair
Unfair

Survey of Jurors in Douglas, Lancaster, and Hall Counties

General Instructions: This survey seeks to better understand the experiences of Nebraska trial participants. It should take approximately 15 minutes to complete. All answers are strictly confidential. Your personal information ***will not be connected*** to your responses.

There are four sections to the survey. Read the questions carefully, as different questions require different types of responses. Answer each question candidly and to the best of your ability. Feel free to use either a pen or pencil. You may elaborate with any written comments in the margins or in the space provided. When you are finished, please return the survey to the Minority and Justice Task Force, using the enclosed envelope.

Section 1
These questions deal with your experience as a juror. Please circle the response that best reflects your experience or attitude for each question.

1. Were you selected for a jury? YES NO
(if NO, skip to Section 3)

2. Before the trial began, the attorneys and/or judge questioned potential jurors (voir dire). In your opinion, was this process fair?
1 Yes
2 No
3 Not Sure (please elaborate)_____

3. How many jurors were on your jury?
1 6 jurors
2 9 jurors
3 12 jurors
4 Other _____

4. Of those who served on your jury (including yourself), how many were ethnic or racial minorities? _____

5. During voir dire, were any ethnic or racial minorities eliminated as potential jurors?
1 One or more minorities were questioned and eliminated.
2 One or more minorities were eliminated without being questioned.
3 One or more minorities were questioned, but not eliminated.
4 No minorities were questioned or eliminated.
5 There were no minorities among the potential juror

6. If a racial or ethnic minority was eliminated as a potential juror, in your opinion was that person not selected due to his or her race or ethnicity?
1 Yes
2 No
3 There were no minorities who were eliminated.

7. Was an interpreter used during the trial?
1 Yes
2 No

8. Did you take off work for jury duty?
1 Yes
2 No

9. If you answered "yes" to Question #7, is your employer paying your normal salary while you serve?
1 Yes
2 No

10. How many times have you *previously* served on a jury, and on what kind of trial?
_____ criminal trials
_____ civil trials.

Section 2
In this section, please select the response that best represents your opinion concerning the trial in which you participated.

11. The defendant in your case received a fair trial.
    1 Strongly agree
    2 Agree
    3 Disagree
    4 Strongly disagree

12. The judge, attorneys, and court personnel communicated effectively with the defendant.
    1 Strongly agree
    2 Agree
    3 Disagree
    4 Strongly disagree

13. The judge, attorneys, and court personnel were respectful and courteous to the defendant.
    1 Strongly agree
    2 Agree
    3 Disagree
    4 Strongly disagree

14. Your jury reflected the racial and ethnic mix of the community.
    1 Strongly agree
    2 Agree
    3 Disagree
    4 Strongly disagree

15. The judge, attorneys and court personnel reflected the racial and ethnic mix of the community.
    1 Strongly agree
    2 Agree
    3 Disagree
    4 Strongly disagree

16. Compared to how you felt *before* your involvement in this trial, how do you feel *now* about how our justice system works?
    1 much better
    2 somewhat better
    3 the same
    4 somewhat worse
    5 much worse

Section 3
In this section, please select the response that best represent your opinions concerning the Nebraska justice system.

17. In Nebraska, personal income affects quality of legal representation.
    1 Strongly agree
    2 Agree
    3 Disagree
    4 Strongly disagree

18. In Nebraska, whites have greater access to information about the courts and their rights.
    1 Strongly agree
    2 Agree
    3 Disagree
    4 Strongly disagree

19. New immigrants to the state are not as likely to make use of the court system as those who have lived in Nebraska for a long time.
    1 Strongly agree
    2 Agree
    3 Disagree
    4 Strongly disagree

20. English speakers receive better treatment by judges, attorneys and court personnel, than non-English speakers.
    1 Strongly agree
    2 Agree
    3 Disagree
    4 Strongly disagree

21. In Nebraska, minority litigants have more difficulty than white litigants affording quality legal representation from a lawyer.
    1 Strongly agree
    2 Agree
    3 Disagree
    4 Strongly disagree

22. Minority representation on juries should reflect the diversity of the community.
    1 Strongly agree
    2 Agree
    3 Disagree
    4 Strongly disagree

23. In order to encourage participation jurors should be paid more for their services.
    1 Strongly agree
    2 Agree
    3 Disagree
    4 Strongly disagree

24. In Nebraska, minorities cannot get fair treatment in the legal system.
    1 Strongly agree
    2 Agree
    3 Disagree
    4 Strongly disagree

Section 4
Now we would like to know a little bit about you. Be assured that we will not be able to identify you from your responses. Please circle or write in your response.

25. Gender:
    1 Male
    2 Female

26. Age: _____

27. Race/ethnicity:
    1 White
    2 African-American
    3 Asian-American
    4 Hispanic-American
    5 Native-American
    6 Arab-American
    7 Other _____

28. On a scale from 1 (low) to 5 (high), how religious are you? _____

29. Religion:
    1 Protestant
    2 Catholic
    3 Jewish
    4 Muslim
    5 Agnostic/Atheist
    6 Other _____

30. Marital Status:
    1 Married
    2 Single/Never Married
    3 Single/Divorced
    4 Single/Domestic Partner
    5 Widowed

31. Political affiliation:
    1 Democrat
    2 Republican
    3 Independent/Not registered

32. On a scale from one to seven, what is your political ideology?

1	2	3	4	5	6	7
strong conservative			*neutral*			*strong liberal*

33. County of Residence: _____

34. How long have you lived in Nebraska (in years)? _____

35. State (or country, if outside U.S.) of birth: _____

36. If you were not born a U.S. citizen:
- How long have you lived in the U.S. (in years)? _____
- In what year did you became a naturalized citizen? _____

37. Native language, *if other than English* (if English, leave blank): _____

38. The community in which I live is racially and ethnically diverse.
1 Strongly Agree
2 Agree
3 Don't Know
4 Disagree
5 Strongly Disagree

39. Employment Status:
1 Full-time
2 Part-time
3 Retired
4 Full-time Student
5 Homemaker
6 Unemployed

40. Profession: _____

41. Education (check highest level):
_____ Some high school/vocational school
_____ High school/vocational school /G.E.D.
_____ Some college/associate's degree
_____ College graduate (bachelor's degree)
_____ Some graduate/professional school
_____ Graduate/professional degree

42. Your family income last year was:
_____ Less than $20,000
_____ $20,000-$40,000
_____ $40,000-$60,000
_____ $60,000-$80,000
_____ More than $80,000

Written Comments: In the space below, please provide any explanation of elaboration on the above responses. You can also use this space to provide any additional information to the Minority and Justice Task Force

Minority & Justice Task Force

Nebraska Court and Probation Employee Survey

RETURN DATE:
May 1, 2002

The Minority and Justice Task Force thanks you for taking time to participate in this study of the Nebraska court system. This survey is being sent to approximately 1,000 employees of the Nebraska county and district court system, employees of the Nebraska probation system, as well as employees of the federal district courts in Nebraska. The answers you provide are very important, as they will serve as the basis for a report (including recommendations) to be issued publicly in December.

The Minority and Justice Task Force: The Nebraska Supreme Court and Nebraska State Bar Association formed the Minority and Justice Task Force to determine if racial or ethnic bias or discrimination exists in the Nebraska court system, and if so, to recommend solutions to identified inequities. This survey is one important method to gather the information. It has been mailed to every Nebraska court employee (except judges who will be surveyed in a questionnaire of Nebraska Bar Association members) to better understand how race and ethnicity affects the Nebraska court system.

Instructions: The directions will indicate whether the question refers to your ***experiences*** or your ***beliefs***. Please circle the best response or fill-in the appropriate space. Written comments are also welcome. Should you wish to clarify a response, please feel free to use the blank space in the margins or attach additional sheets of paper.

Confidentiality: ***All answers will be treated confidentially*** and no respondents will be identifiable in the final report, nor will questionnaires be linked with any individual respondent. Only the research staff will see the raw data.

When completed, use the enclosed self-addressed stamped envelope and **please return the survey by May 1st**. If you have any questions or comments concerning the survey, the Task Force, or if you would like to confidentially discuss issues of racial or ethnic discrimination and bias in the Nebraska courts, please contact the project director toll free at 1-800-927-0117 (ext. 27), email jchoate@nebar.com, or write:

Judd Choate, Ph.D., Project Director
Nebraska Minority and Justice Task Force
635 South 14th Street
P.O. Box 81809
Lincoln, NE 68501

NOTE: For the purposes of this survey, the term ***Minority*** refers to African American/Black, Asian/Pacific Islander, Hispanic/Latino (regardless of skin color), Native American/American Indian and/or other persons identified as a racial or ethnic minority.

A. Background Information

1. What is your current employment status?
   1. Full-time employee
   2. Part-time employee
   3. Full-time student
   4. Contractor
   5. Intern/Volunteer

2. Where do you work?
   1. County Court
   2. District Court
   3. Federal District Court
   4. Administrative Office of the Courts/Probation
   5. Probation Office
   6. Other (please specify) _____

3. In what county are you employed? _____

4. What is your current position? _____

5. How many years have you occupied your current position? _____

6. How many years total have you worked for Nebraska courts? _____

7. Please describe the ethnic and racial diversity of your workplace.
   1. Highly diverse
   2. Somewhat diverse
   3. Not diverse

8. Please describe the ethnic and racial diversity of the area in which you live.
   1. Highly diverse
   2. Somewhat diverse
   3. Not diverse

9. Approximately what percentage of the clientele in your criminal court is from each of the following groups?
   a. White _____%
   b. African American _____%
   c. Hispanic/Latino _____%
   d. Native American _____%
   e. Asian/Pacific Islander _____%
   f. Other (specify)_____ _____%
   g. Not applicable

10. Approximately what percentage of the clientele in your civil court is from each of the following groups?
   a. White _____%
   b. African American _____%
   c. Hispanic/Latino _____%
   d. Native American _____%
   e. Asian/Pacific Islander _____%
   f. Other (specify)_____ _____%
   g. Not applicable

11. In general, how satisfied are you in:	Very Satisfied	Satisfied	Somewhat Dissatisfield	Dissatisfied
a. your present professional situation?	1	2	3	4
b. your opportunities for professional advancement?	1	2	3	4
c. your access to networks important to your career?	1	2	3	4

B. Hiring Practices/Employment Opportunities

Please circle the response that best describes your knowledge or attitudes about the hiring and employment practices of the Nebraska court entity for which you work.

12. To your knowledge, have any minorities applied for a position in the court system in which you work, in the past five years?
   1. Yes If Yes, approximately how many? _____
   2. No
   3. Don't know

13. Has your employer hired or promoted any minority employees to supervisory positions during the past five years?
   1. Yes If Yes, approximately how many? _____
   2. No
   3. Don't know

14. Does your court take steps specifically directed at recruiting minority employees?
   1. Yes – and the steps are serious
   2. Yes – but the steps are not serious
   3. No – but has been discussed
   4. No
   5. Don't know
   6. Not applicable

15. How did you find out about the position you currently occupy? (Choose all that apply)
   1. Family
   2. Friend
   3. Networking
   4. Advertisement
   5. Recruited
   6. Other (Please explain) _____

16. While working for your court, have you participated in multicultural education or training?
   1. Yes – my organization requires it
   2. Yes – my organization encourages it
   3. Yes – I did it for my own reasons
   4. No – but my organization encourages it
   5. No – and my organization does nothing to encourage it

17. Thinking about the past five years, how would you characterize the work environment for minority court employees?
   1. Situation is getting better
   2. Situation is about the same
   3. Situation is getting worse
   4. No basis for knowledge

18. In your opinion, how would you characterize the legal system in Nebraska regarding hiring and promotion opportunities for:	None	Few	Some	Many	No Basis For Knowledge
a. minority judges	1	2	3	4	5
b. minority attorneys	1	2	3	4	5
c. minority court personnel	1	2	3	4	5
d. minority probation officers	1	2	3	4	5
e. minority probation personnel	1	2	3	4	5

Please read the following series of statements and select the response that best represents your opinion concerning employment and professional opportunities available to employees of Nebraska's court system. When responding to the statements, assume that all other factors are equal.

19. How strongly do you agree or disagree with the following statements?	Strongly Agree	Agree	Disagree	Strongly Disagree	No Basis For Knowledge
a. The personnel in your court have sufficient education and training to provide adequate assistance to minorities.	1	2	3	4	5
b. Minorities are given hiring preferences over better qualified whites.	1	2	3	4	5
c. To be hired for a position in your court, minorities need better qualifications than white applicants.	1	2	3	4	5
d. Overall, the professional opportunities available to minorities are greater than those available to whites.	1	2	3	4	5
e. Persons who work in the courts should be trained to understand the needs of specific minority groups.	1	2	3	4	5
f. Informal mentors to help with networking are more widely available for whites than for minorities.	1	2	3	4	5
g. Minorities employed in your court have equal opportunity for professional advancement.	1	2	3	4	5
h. All Nebraska court employees have equal opportunity for professional advancement	1	2	3	4	5
i. Despite adequate credentials, applicants with a Spanish accent are less likely to be hired by your court.	1	2	3	4	5
j. Minorities employed in your court tend to be assigned less complex tasks or duties.	1	2	3	4	5

20. Racial and ethnic minorities are adequately represented:	Strongly Agree	Agree	Disagree	Strongly Disagree	No Opinion/ Don't Know
a. among Nebraska judges	1	2	3	4	5
b. among Nebraska public defenders	1	2	3	4	5
c. among Nebraska prosecutors	1	2	3	4	5
d. among Nebraska private attorneys	1	2	3	4	5
e. among Nebraska court employees	1	2	3	4	5
f. among Nebraska probation officers and employees	1	2	3	4	5
g. in Nebraska jury pools	1	2	3	4	5
h. on Nebraska jury panels	1	2	3	4	5

C. Courtroom

The following questions specifically concern courtroom conduct. Please circle the response that best describes your experience or observations while working in the Nebraska court system <u>over the past two years</u>. If you have not witnessed any court interaction, please skip to the next section.

21. How often does the following occur?	Always	Often	Sometimes	Seldom	Never	No Basis For Judgment
a. Judges base their evaluations of a defendant's/litigant's case on minority stereotypes.	1	2	3	4	5	6
b. Judges are honest and fair in deciding cases.	1	2	3	4	5	6
c. Judges are more abrupt with minority counsel than they are with white counsel.	1	2	3	4	5	6
d. Judges release minority defendants on their own recognizance as often as they do white defendants accused of equally serious crimes.	1	2	3	4	5	6
e. Judges find the testimony of white <u>lay</u> witnesses more credible than minority <u>lay</u> witnesses.	1	2	3	4	5	6
f. Judges find the testimony of white <u>expert</u> witnesses more credible than minority <u>expert</u> witnesses.	1	2	3	4	5	6
g. Judges apply the same standards in deciding child support amounts for minorities and whites.	1	2	3	4	5	6
h. Judges apply the same standards when they remove a child from the homes of minorities and whites.	1	2	3	4	5	6
i. Judges make every effort to accommodate non-English-speaking defendants and witnesses	1	2	3	4	5	6
j. Judges sentence white defendants more leniently than minority defendants convicted of the same offense.	1	2	3	4	5	6
k. Judges are more likely to accept the sentencing recommendation of the prosecutor when the defendant is a minority.	1	2	3	4	5	6

The next section refers to your own personal experiences, or those experiences of which you are familiar, while working in the Nebraska justice system. Please indicate the frequency with which the following have occurred <u>in your presence or to your knowledge</u>.

22. Inappropriate comments or jokes of a racial or ethnic nature have been made in your presence by:	Very Frequently	Frequently	Somewhat Infrequently	Infrequently	Never
a. an attorney	1	2	3	4	5
b. a judge	1	2	3	4	5
c. court personnel	1	2	3	4	5
d. a probation employee	1	2	3	4	5

23. You have heard racial or ethnic slurs used by:	Very Frequently	Frequently	Somewhat Infrequently	Infrequently	Never
a. an attorney	1	2	3	4	5
b. a judge	1	2	3	4	5
c. court personnel	1	2	3	4	5
d. a probation employee	1	2	3	4	5

24. You have witnessed disrespectful or discourteous treatment toward minorities by:					
a. an attorney	1	2	3	4	5
b. a judge	1	2	3	4	5
c. court personnel	1	2	3	4	5
d. a probation employee	1	2	3	4	5

The next several items refer to <u>your opinion</u> of the Nebraska court system. Please indicate how much you agree or disagree with the following statements.

25. How strongly do you agree or disagree with the following statements?	Strongly Agree	Agree	Disagree	Strongly Disagree	No Basis For Judgment
a. Minority litigants are as well represented in <u>criminal</u> cases as white litigants.	1	2	3	4	5
b. Minority litigants are as well represented in <u>civil</u> cases as white litigants.	1	2	3	4	5
c. A person's social "class" is more likely to create bias than his/her race or ethnicity	1	2	3	4	5
d. Court personnel are helpful and courteous.	1	2	3	4	5
e. Courts adequately monitor the progress of cases.	1	2	3	4	5
f. Minority defendants get <u>impaneled juries</u> that represent the community at large.	1	2	3	4	5
g. In general, Nebraska <u>jury pools</u> represent the community at large.	1	2	3	4	5
h. Attorneys consider race and ethnicity when exercising peremptory challenges.	1	2	3	4	5
i. Prosecutors are less likely to offer diversion to minority defendants.	1	2	3	4	5
j. People who speak with an accent are more likely to be discriminated against in the courts.	1	2	3	4	5
k. In the Nebraska court system, whites are more likely to be discriminated against than minority group members.	1	2	3	4	5
l. If there is bias in the Nebraska justice system, race and/or ethnicity has nothing to do with it.	1	2	3	4	5
m. Minorities invite their own discrimination.	1	2	3	4	5
n. Nebraska courts make reasonable efforts to ensure that individuals have adequate attorney representation.	1	2	3	4	5
o. Court rulings are understood by those involved in the cases.	1	2	3	4	5
p. Using an interpreter makes a defendant look guilty.	1	2	3	4	5
q. Minorities invite their own discrimination.	1	2	3	4	5

26. Which of the following best describes your overall perception of bias against racial minorities in the Nebraska justice system over the past five years?

1. There has never been any racial or ethnic bias, now or in the past five years.
2. There is less racial or ethnic bias now than in the past five years.
3. There is more racial or ethnic bias now than in the past five years.
4. There is the same amount of racial or ethnic bias now as in the past five years.

D. Interpretive Services and Recommendations

27. Are you aware of any cases in your court where a language interpreter was needed?
   1. Yes If Yes, in approximately how many cases per month does your court use an interpreter? _____
   2. No

28. In your experience in the Nebraska justice system, how often have interpreters been available for court participants who did not speak English?
   1. Always
   2. Often
   3. Sometimes
   4. Seldom
   5. Never
   6. Not applicable

29. Are the interpreters used by your court "certified" by the Nebraska Supreme Court?
   1. Always
   2. Often
   3. Sometimes
   4. Seldom
   5. Never
   6. No basis for judgment

30. In your opinion, are the interpreters used by your court adequate?
   1. Always
   2. Often
   3. Sometimes
   4. Seldom
   5. Never
   6. No basis for judgment

31. How often does your court use family members or friends to translate for non-English speaking litigants/defendants?
   1. Always
   2. Often
   3. Sometimes
   4. Seldom
   5. Never
   6. No basis for knowledge

32. Please indicate the percentage of times in the past two years in which your court has used interpreters from each of the following groups.

	Percentage of times
1. The court provided a certified interpreter.	_____
2. The court provided an interpreter but you are unaware of certification status.	_____
3. A family member or friend served as interpreter.	_____
4. A community member was recruited to interpret.	_____
5. Other interpretive services were provided. (please explain) _____	_____
6. Not applicable	

33. How would you rate the following recommendations to improve the delivery of judicial services to the minority community in Nebraska?	Very Important	Somewhat Important	Not Important	No Basis For Judgment
a. Improved training for public defenders	1	2	3	4
b. Improved pay for public defenders	1	2	3	4
c. Cultural sensitivity training for law enforcement personnel	1	2	3	4
d. Cultural sensitivity training for court personnel	1	2	3	4
e. Cultural sensitivity training for attorneys and judges	1	2	3	4
f. Cultural sensitivity training for probation employees	1	2	3	4
g. Increased number of minority judges and county attorneys	1	2	3	4
h. Improved interpreter services/translated documents	1	2	3	4
i. More pro bono (free) legal aid by established attorneys	1	2	3	4

34. Other recommendations you would make to improve the delivery of judicial services for minority Nebraskans. Please use this space or attach additional pages, if necessary.

E. Probation Officer Section (Probation Officers Only)

This section is specifically for probation officers. <u>If you are not a probation officer, please skip this section and advance to question #45.</u>

37. How many years have you been employed as a probation officer? _____

39. In your current position as a probation officer, do you supervise:
   1. Adults
   2. Juveniles
   3. Both of the above
   4. Not applicable

38. Approximately what proportion of your probation clientele is in each of the following groups?

a. White	_____%
b. African American	_____%
c. Hispanic/Latino	_____%
d. Native American	_____%
e. Asian/Pacific Islander	_____%
f. Other (specify)_____	_____%
g. Not applicable	

40. How would you rate the following <u>recommendations</u> to improve the delivery of probation services to the minority community in Nebraska?	Very Important	Somewhat Important	Not Important	No Basis For Judgment
a. Culturally competent treatment programs	1	2	3	4
b. Availability of minority probation officers	1	2	3	4
c. Effective and independent minority advocates	1	2	3	4
d. Community-based diversion options	1	2	3	4
e. Alternatives to juvenile incarceration	1	2	3	4

41. Please list other recommendations you would make to improve the delivery of probation services for minority Nebraskans. Use this space or attach additional pages, if necessary.

42. Based on your experience, what improvements would you suggest to ensure that the court system operates in an equitable manner in delinquency cases? (only answer if you work with juveniles)

43. Based on your experience, have you seen instances of someone failing a treatment program due to lack of cultural sensitivity in the program? Please explain.

44. Based on your experience, do minorities on probation have greater difficulty staying out of trouble than do whites? Why or why not?

F. Demographic Information

45. What is your Gender?
   1. Male
   2. Female

47. Age (at last birthday): _____

48. Which of the following best describes you?
   1. African American/Black
   2. American Indian/Native American
   3. Asian/Pacific Islander
   4. Hispanic/Latino
   5. White/Caucasian
   6. Other _____

50. Do you consider yourself a member of a minority group?
   1. Yes
   2. No

52. Which category best identifies your income last year?
   1. $0 - $14,999
   2. $15,000 - $29,999
   3. $30,000 - $44,999
   4. $45,000 - $59,999
   5. $60,000 - $74,999
   6. $75,000 - $99,999
   7. $100,000 - $149,999
   8. $150,000 - $199,999
   9. $200,000 +

46. What is your highest level of education?
   1. Less than a High School Education
   2. High School /Vocational School Graduate
   3. Some College
   4. College Graduate
   5. Some Graduate/ Professional School
   6. Graduate/ Professional Degree

49. Current Marital Status:
   1. Married
   2. Single
   3. Widowed
   4. Divorced
   5. Domestic Partner

51. What is the size of the community where you work?
   1. Metropolitan area (50,000 plus)
   2. Suburban area
   3. Small city (10,000 to 49,999)
   4. Town (2,000 to 9,999)
   5. Small town/ rural (under 2,000)

53. What is the size of the community where you live?
   1. Metropolitan area (50,000 plus)
   2. Suburban area
   3. Small city (10,000 to 49,999)
   4. Town (2,000 to 9,999)
   5. Small town/ rural (under 2,000)

G. Comments

54. Please take a moment to write any additional thoughts you have about racial and ethnic issues in the courts (attach extra pages if necessary).

Thank you for taking time to fill out this survey. Be assured that all information provided here will be kept completely confidential.

Testimony: If you have personally experienced or observed any incidents in which minority judges, attorneys, court or probation personnel, defendants, litigants, victims, and/or other participants were subjected to unfair, insensitive, or otherwise disparate treatment, please consider providing written or verbal testimony. If you would like more information, please contact the project director at jchoate@nebar.com or (800) 927-0117.

Minority & Justice Task Force

Nebraska State Bar Association Membership Survey

RETURN DATE:
April 5, 2002

The Minority and Justice Task Force thanks you for taking time to participate in this study of the Nebraska justice system. It should take no more than 10 minutes to complete. This survey is being sent to every member of the Nebraska State Bar Association with a Nebraska residence, totaling nearly 4,800 surveys. The answers you provide are very important, as they will serve as the basis for a report (including recommendations) to be issued publicly in December.

The Minority and Justice Task Force: The Nebraska State Bar Association and Nebraska Supreme Court formed the Minority and Justice Task Force to identify racial and ethnic bias and discrimination in the Nebraska court system and make appropriate recommendations to address any identified inequities. This survey is an important tool in the identification process. It has been mailed to Nebraska State Bar Association members in an effort to better understand how race and ethnicity affects the Nebraska justice system, both within the courts as well in the broader legal community.

Instructions: The directions will indicate whether the question refers to your ***experiences*** or your ***beliefs***. Please circle the best response or fill-in the appropriate space. Written comments are also welcome. Should you wish to clarify a response, please feel free to use the blank space in the margins or attach additional sheets of paper.

Confidentiality: ***All answers will be treated confidentially*** and no respondents will be identifiable in the final report, nor will questionnaires be linked with any individual respondent. Only the research staff will see the raw data.

When completed, use the enclosed self-addressed stamped envelope and **please return the survey by *April 5th***. If you have any questions or comments concerning the survey, the Task Force, or if you would like to confidentially discuss issues of racial or ethnic discrimination and bias in the Nebraska courts, please contact the project director toll free at 1-800-927-0117 (ext. 27), email jchoate@nebar.com, or write:

Judd Choate, Ph.D., Project Director
Nebraska Minority and Justice Task Force
The Nebraska State Bar Association
635 South 14th Street
P.O. Box 81809
Lincoln, NE 68501

NOTE: For the purposes of this survey, the term ***Minority*** refers to African American/Black, Asian/Pacific Islander, Hispanic/Latino (regardless of skin color), Native American/American Indian and/or other persons identified as a racial or ethnic minority.

A. Background Information

1. In what county do you work/is your primary practice located? _____

2. In what year were you admitted to practice law in the state of Nebraska? _____

3. What is your current position? _____
_____

4. In what year were you admitted to practice law in <u>any</u> state? _____

5. How many years have you occupied your current position? _____

6. Approximately how often have you appeared in Nebraska county or district trial courtrooms during the past two years?
   1. Never
   2. Less than once a month
   3. Once or twice a month
   4. Weekly
   5. Daily

7. Please describe the ethnic and racial diversity of your <u>workplace</u>.
   1. Highly diverse
   2. Somewhat diverse
   3. Not diverse

8. Please describe the ethnic and racial diversity of the area in which you <u>live</u>.
   1. Highly diverse
   2. Somewhat diverse
   3. Not diverse

9. How many attorneys are employed, full or part-time, by your firm or organization? _____

10. How many non-attorneys are employed, full or part-time, by firm or organization? _____

11. Which of the following best describes your current employment?
   1. Academic
   2. Corporate
   3. Government/Public sector
   4. Private practice – solo practitioner
   5. Private practice – law firm
   6. Legal services
   7. Other (please specify) _____

12. How many attorneys in your firm or organization are from each of the following ethnic and racial groups? (please include yourself)
   a. White _____
   b. African American _____
   c. Hispanic/Latino _____
   d. Native American _____
   e. Asian/Pacific Islander _____
   f. Other (specify)_____ _____

13. In which area(s) of law do you regularly work/practice? (circle the numbers of all that apply)
   1. General practice
   2. Criminal prosecution
   3. Criminal defense (private)
   4. Public defender
   5. Family law/Juvenile law
   6. Consumer Law
   7. Probate
   8. Civil litigation
   9. Labor/Employment
   10. Appellate
   11. Corporate
   12. Real Estate
   13. Other (please specify) _____
   14. None

14. Approximately what proportion of your clientele is from each of the following groups? (for prosecutors "clientele" refers to defendants)
   a. White _____%
   b. African American _____%
   c. Hispanic/Latino _____%
   d. Native American _____%
   e. Asian/Pacific Islander _____%
   f. Other (specify)_____ _____%
   g. Not applicable

15. How many of the attorneys in your firm or organization are criminal law attorneys? _____

16. How many of the attorneys in your firm or organization are civil law attorneys? _____

17. In general, how satisfied are you in:

	Very Satisfied	Satisfied	Somewhat Dissatisfied	Dissatisfied
a. your present professional situation?	1	2	3	4
b. your opportunities for professional advancement?	1	2	3	4
c. your access to networks important to your career?	1	2	3	4

B. Employment Opportunities

In the following section, please circle the response that best describes your knowledge or attitudes about hiring and employment practices. Please take note of whether the question asks your experience OR your opinion. Skip questions that do not apply to you or the firm/organization for which you work.

18. How did you find out about the position you currently occupy? (Choose all that apply)
   1. Family
   2. Friend/Colleague
   3. Professor
   4. Networking
   5. Advertisement
   6. Recruited
   7. Other (please explain) _____
   8. Unemployed

19. Does your firm or organization take steps specifically directed at recruiting minority lawyers?
   1. Yes – and the steps are serious
   2. Yes – but the steps are not serious
   3. No – but it has been discussed
   4. No
   5. Don't know
   6. Not applicable

20. Which of these are special efforts made by your organization to recruit minorities? (Select all that apply)
   1. Outreach to minority law school organizations
   3. Minority law student summer internships
   4. Minority bar association(s)
   5. Participation in minority-sponsored job fairs
   6. Other (specify) _____
   7. No efforts are made
   8. Don't know/Not applicable

21. While working for your current firm or organization, have you participated in multicultural education or training?
   1. Yes – my organization requires it
   2. Yes – my organization encourages it
   3. Yes – I did it for my own reasons
   4. No – but my organization encourages it
   5. No – and my organization does nothing to encourage it

22. To your knowledge, have any minority attorneys applied for a position at the firm or organization for which you work, in the past five years?
   1. Yes If Yes, were they hired (why or why not?)? _____
   2. No
   3. Don't know

23. Has your firm or organization hired or promoted any minority attorneys to supervisory positions during the last five years?
   1. Yes If Yes, approximately how many? _____
   2. No If No, were qualified minorities passed over? _____
   3. Don't know

24. In your opinion, are the efforts made by your firm or organization to recruit and hire minority attorneys adequate?
   1. Yes If Yes, what are they? _____
   2. No If No, why not? _____
   3. Don't know

Please read the following series of statements and select the response that best represents your opinion concerning employment and professional opportunities available to attorneys in Nebraska's judicial system. When responding to the statements, assume that all other factors are equal.

25. How strongly do you agree or disagree with the following statements?	Strongly Agree	Agree	Disagree	Strongly Disagree	No Basis For Knowledge
a. Nebraska's law schools do an adequate job recruiting and admitting qualified minority law students.	1	2	3	4	5
b. Nebraska's law schools should do more to recruit and admit qualified minority law students.	1	2	3	4	5
c. Sufficient clerking and internship opportunities exist for minority law students.	1	2	3	4	5

Appendix D

	Strongly Agree	Agree	Disagree	Strongly Disagree	No Basis For Knowledge
d. Nebraska's private law firms do an adequate job of hiring minority graduates of Nebraska's law schools.	1	2	3	4	5
e. Nebraska's private law firms select the best candidate for the position, regardless of academic credentials.	1	2	3	4	5
f. Overall, professional opportunities available to minority attorneys are greater than those available to white attorneys.	1	2	3	4	5
g. Minority attorneys are given hiring preference over better qualified white attorneys.					
h. To be hired by your organization, a minority attorney needs better qualifications than a white attorney.	1	2	3	4	5
i. The Nebraska attorneys you know have sufficient education and training to provide adequate assistance to minority clients.	1	2	3	4	5
j. Attorneys should be trained to understand the needs of specific minority groups.	1	2	3	4	5
k. All Nebraska attorneys have equal opportunity for professional advancement.	1	2	3	4	5
l. Minority attorneys that you know tend to be assigned less complex tasks or duties than white attorneys.	1	2	3	4	5

	Minority	White	No Difference	No Basis For Judgment
26. In general, more opportunities for positions in private law firms are available for attorneys who are:	1	2	3	4
27. In general, better opportunities for positions in private law firms are available for attorneys who are:	1	2	3	4
28. More opportunities for promotion within your organization are given to attorneys who are:	1	2	3	4
29. More opportunities to develop mentor relationships are available to attorneys who are:	1	2	3	4
30. The judicial selection process usually favors attorneys/judges who are:	1	2	3	4
31. Fewer fee-generating court appointments are given to attorneys who are:	1	2	3	4

32. Racial and ethnic minorities are adequately represented:	Strongly Agree	Agree	Disagree	Strongly Disagree	No Opinion/ Don't Know
a. among current Nebraska Supreme Court justices	1	2	3	4	5
b. among current Nebraska Court of Appeals judges	1	2	3	4	5
c. among current Nebraska district court judges	1	2	3	4	5
d. among current Nebraska county court judges	1	2	3	4	5
e. among current Nebraska worker's compensation court judges	1	2	3	4	5
f. among current Nebraska juvenile court judges	1	2	3	4	5
l. among current Nebraska public defenders	1	2	3	4	5
m. among current Nebraska prosecutors	1	2	3	4	5
n. among current Nebraska private attorneys	1	2	3	4	5
o. in Nebraska jury pools	1	2	3	4	5
p. on Nebraska jury panels	1	2	3	4	5

C. Courtroom Environment

The following questions specifically concern courtroom conduct. Please circle the response that best describes your experience or observations during the past two years. If you have not witnessed any legal professionals/litigants interacting in court, chambers, or at professional gatherings during the last two years, skip to the next section.

33. How often does the following occur?	Always	Often	Sometimes	Seldom	Never	No Basis For Judgment
a. Judges base their evaluations of a defendant's/litigant's case on minority stereotypes.	1	2	3	4	5	6
b. Judges are honest and fair in deciding cases.	1	2	3	4	5	6
c. Judges are more abrupt with minority counsel than they are with white counsel.	1	2	3	4	5	6
d. Judges release minority defendants on their own recognizance as often as they do white defendants accused of equally serious crimes.	1	2	3	4	5	6
e. Judges find the testimony of white lay witnesses more credible than minority lay witnesses.	1	2	3	4	5	6
f. Judges find the testimony of white expert witnesses more credible than minority expert witnesses.	1	2	3	4	5	6
g. Judges apply the same standards in deciding child support amounts for minorities and whites.	1	2	3	4	5	6
h. Judges apply the same standards when they remove a child from the homes of minorities and whites.	1	2	3	4	5	6
i. Judges sentence white defendants more leniently than minority defendants convicted of the same offense.	1	2	3	4	5	6
j. Judges are more likely to accept the sentencing recommendation of the prosecutor when the defendant is a minority.	1	2	3	4	5	6
k. Judges make every effort to accommodate non-English-speaking defendants and witnesses.	1	2	3	4	5	6

The two sections refer to your own personal experiences, or those experiences of which you are familiar, while a member of the Nebraska State Bar Association. Please indicate the frequency with which the following have occurred in your presence or to your knowledge.

34. Inappropriate comments or jokes of a racial or ethnic nature have been made in your presence by:	Very Frequently	Frequently	Somewhat Infrequently	Infrequently	Never
a. an attorney	1	2	3	4	5
b. a judge	1	2	3	4	5
c. court personnel	1	2	3	4	5
35. You have heard racial or ethnic slurs used by:					
a. an attorney	1	2	3	4	5
b. a judge	1	2	3	4	5
c. court personnel	1	2	3	4	5
36. You have witnessed disrespectful or discourteous treatment toward minorities by:					
a. an attorney	1	2	3	4	5
b. a judge	1	2	3	4	5
c. court personnel	1	2	3	4	5

	White	Minority	No Difference	No Basis For Judgment
37. Based on your experience, prosecutors are more likely to file charges when defendants are:	1	2	3	4
38. Prosecutors are more likely to file charges when victims are:	1	2	3	4
39. Prosecutors are more likely to make favorable plea offers when the defendants are:	1	2	3	4
40. Prosecutors are more likely to make favorable plea offers when the victims are:	1	2	3	4
41. Defendants are more likely to remain in custody prior to trial when they are:	1	2	3	4
42. Defendants are more likely to be found guilty when they are:	1	2	3	4

The next two sets of questions refer to your opinion of the Nebraska justice system. Please indicate how much you agree or disagree with the following statements.

43. How strongly do you agree or disagree with the following statements?	Strongly Agree	Agree	Disagree	Strongly Disagree	No Basis For Judgment
a. Minority litigants are as well represented in criminal cases as white litigants.	1	2	3	4	5
b. Minority litigants are as well represented in civil cases as white litigants.	1	2	3	4	5
c. A person's social "class" is more likely to create bias than his/her race or ethnicity.	1	2	3	4	5
d. Court personnel are helpful and courteous.	1	2	3	4	5
e. Courts adequately monitor the progress of cases.	1	2	3	4	5
f. Minority defendants get impaneled juries that represent the community at large.	1	2	3	4	5
g. In general, Nebraska jury pools represent the community at large.	1	2	3	4	5
h. Attorneys consider race and ethnicity when exercising peremptory challenges.	1	2	3	4	5
i. Prosecutors are less likely to offer diversion to minority defendants.	1	2	3	4	5
j. People who speak with an accent are more likely to be discriminated against in the courts.	1	2	3	4	5
k. In the Nebraska justice system, whites are more likely to be discriminated against than minority group members.	1	2	3	4	5
l. If there is bias in the Nebraska justice system, race and/or ethnicity has nothing to do with it.	1	2	3	4	5
m. Minorities invite their own discrimination.	1	2	3	4	5
n. Nebraska courts make reasonable efforts to ensure that individuals have adequate attorney representation.	1	2	3	4	5
o. Court rulings are understood by the people involved in the cases.	1	2	3	4	5
p. Using an interpreter makes a defendant look guilty.	1	2	3	4	5
q. Whites receive better treatment from the courts than ethnic and racial minorities do.	1	2	3	4	5

44. Which of the following best describes your perception of bias against racial minorities in the Nebraska justice system?
1. There has never been any racial or ethnic bias, now or in the past five years.
2. There is less racial or ethnic bias now than in the past five years.
3. There is more racial or ethnic bias now than in the past five years.
4. There is the same amount of racial or ethnic bias now as in the past five years.

D. Interpretive Services and Recommendations

45. In the past two years, have you had a client or witness who needed a language interpreter?
1. Yes If Yes, approximately how many?_____
2. No
3. Not applicable

47. In the past two years, have you had a client who would have benefited from translated court documents?
1. Yes If Yes, approximately how many?_____
2. No
3. Not applicable

46. In your experience in the Nebraska justice system, how often have interpreters been available for court participants who did not speak English?
1. Always
2. Often
3. Sometimes
4. Seldom
5. Never
6. Not applicable

48. Please indicate how many times in the past two years you have worked on a case in which the court has used interpreters from each of the following groups.

	Number of times
1. The court provided a certified interpreter.	_____
2. The court provided an interpreter but you are unaware of certification status.	_____
3. A family member or friend served as interpreter.	_____
4. A community member was recruited to interpret.	_____
5. Other interpretive services were provided. (please explain) _____	_____
6. Not applicable	

49. How would you rate the following recommendations to improve the delivery of judicial services to the minority community in Nebraska?	Very Important	Somewhat Important	Not Important	No Basis For Judgment
a. Improved training for public defenders	1	2	3	4
b. Improved pay for public defenders	1	2	3	4
c. Cultural sensitivity training for law enforcement personnel	1	2	3	4
d. Cultural sensitivity training for court personnel	1	2	3	4
e. Cultural sensitivity training for attorneys and judges	1	2	3	4
e. Increased number of minority judges and county attorneys	1	2	3	4
f. Improved interpreter services/translated documents	1	2	3	4
g. More pro bono (free) legal aid by established attorneys	1	2	3	4

50. Other recommendations you would make to improve the delivery of judicial services for minority Nebraskans. Please use this space or attach additional pages, if necessary.

51. In your opinion, what, if any, are the major sources of bias against minorities in Nebraska's court system? Please use this space or attach additional pages, if necessary.

52. What recommendation(s) would you make to enhance the legal profession vis-a-vis racial and ethnic bias and discrimination in the Nebraska court system?

53. What kinds of educational programs (for judges, attorneys, personnel, the public, etc.) would you recommend to help curb bias in Nebraska's legal community? Please use this space or attach additional pages, if necessary.

E. Demographic Information

54. What is your Gender?
1. Male
2. Female

56. Age (at last birthday): _____

58. Which of the following best describes you?
1. African American/Black
2. American Indian/Native American
3. Asian/Pacific Islander
4. Hispanic/Latino
5. White/Caucasian
6. Other _____

60. Do you consider yourself a member of a minority group?
1. Yes
2. No

62. Which category best identifies your income last year?
1. $0 - $14,999
2. $15,000 - $29,999
3. $30,000 - $44,999
4. $45,000 - $59,999
5. $60,000 - $74,999
6. $75,000 - $99,999
7. $100,000 - $149,999
8. $150,000 - $199,999
9. $200,000 +

55. What law school did you attend?
1. Creighton University School of Law
2. University of Nebraska College of Law
3. Other (please specify) _____

57. Other than a law degree, do you have any other professional degrees? (please specify) _____
_____

59. Current Marital Status:
1. Married
2. Single
3. Widowed
4. Divorced
5. Domestic Partner

61. What is the size of the community where you work?
1. Metropolitan area (50,000 plus)
2. Suburban area
3. Small city (10,000 to 49,999)
4. Town (2,000 to 9,999)
5. Small town/ rural (under 2,000)

63. What is the size of the community where you live?
1. Metropolitan area (50,000 plus)
2. Suburban area
3. Small city (10,000 to 49,999)
4. Town (2,000 to 9,999)
5. Small town/ rural (under 2,000)

Thank you for taking time to complete this survey. The results will prove useful in identifying whether there is racial or ethnic bias in Nebraska's courts system. Be assured that all information provided here will be kept completely confidential.

Testimony: If you have you personally experienced or observed any incidents in which minority judges, attorneys, court or probation personnel, defendants, litigants, victims, and/or other participants were subjected to unfair, insensitive, or otherwise disparate treatment, please consider providing written or verbal testimony. If you would like more information, please contact the project director at jchoate@nebar.com or (800) 927-0117.