

## EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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December 20, 2007

Neil Hernandez

Commissioner

Department of Juvenile Justice

110 Williams Street

New York, NY 10038

Re: Resolution #07/26-130/Preliminary Determination Pursuant to the Audit of the Department of Juvenile Justice and (DJJ) and its Compliance with the City's Equal Employment Opportunity Policy from July 1, 2005 through June 30, 2007.

Dear Commissioner Hernandez:

Pursuant to Chapter 36 of the New York City Charter, the Equal Employment Practices Commission (EEPC) is empowered to audit and evaluate the employment practices, programs, policies and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for minority group members, and women. (New York City Charter, Chapter 36, sections 831(d)(2) and (5).)

The Charter defines city agency as any "city, county, borough or other office, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government, where the majority of the board members of such agency are appointed by the mayor or serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury..."

This letter contains the preliminary determinations of EEPC pursuant to its audit of compliance by the Department of Juvenile Justice (DJJ) during the twenty-four month period commencing July 1, 2005 through June 30, 2007. Requests for corrective actions and/or recommendations are included where the EEPC has determined that DJJ has failed to comply in whole or in part with the City's EEO Policy.

All recommendations for corrective actions are consistent with both the audit's findings and the parameters set forth in the EEO Policy, which, in accordance with section 815 of the City Charter, holds agency heads responsible for the effective implementation of Equal Employment Opportunity. Therefore, the Department of Juvenile Justice should incorporate these recommendations in its agency-specific EEO Plan. The relevant sections of the City's EEO Policy are cited in parenthesis at the end of each recommendation. In addition, this Commission is empowered by Section 831 of the City Charter to recommend all necessary and appropriate actions to ensure fair and effective affirmative employment plans for minority group members and women.

The purpose of this audit is to evaluate the agency's compliance with the EEOP, not to issue findings of discrimination pursuant to the New York City Human Rights Law.

### **Scope and Methodology**

Audit methodology included an analysis of DJJ's Agency Specific Plans, quarterly EEO reports, and responses to an EEPC Document and Information Request Form. EEPC staff also analyzed City-wide Equal Employment Database System (CEEDS) data by which DJJ determines underutilizations and concentrations of targeted groups within the workforce. These designations represent imbalances between the number of employees in a particular job category and the number that would reasonably be expected when compared to their availability in the relevant labor market. Where CEEDS data revealed underutilizations within the DJJ workforce, the auditors determined whether the agency had undertaken reasonable measures to correct those underutilizations. (Appendix 5)

EEPC auditors also conducted in-depth, on-site interviews with DJJ's EEO officer, career counselor and EEO counselor.

A survey of 751 people employed by DJJ during the audit period was distributed. (This number excludes 64 surveys that were returned as undeliverable.) Fifty-eight people (7.4%) responded. Significant survey findings are attached and discussed in the proceeding pages. (Appendix 1)

### **Description of the Agency**

The Department of Juvenile Justice (DJJ) was created in 1979 by a change in Chapter 28 of New York City's Charter. Sections 675 through 678 of the Executive Law delineate the mandate for the Agency and its powers. The DJJ's mission is to provide Non-Secure (NSD) and Secure Detention for alleged Juvenile Delinquents (JDs) and Secure Detention for alleged Juvenile Offenders (JOs) whose cases are pending, along with post-adjudicated juveniles awaiting transfer to state facilities. DJJ detains youth in structured and secure settings. While in detention, residents receive an array of services, such as education, health services, recreation, and case management. (Appendices 3 and 4 provide a breakdown of the DJJ's workforce for calendar years 2005 and 2007.)

## **Personnel Activity During the Audit Period**

According to data provided by the DJJ, during the audit period, 300 people were hired: 15 Caucasians, 235 African-Americans, 47 Hispanics, 1 Asian, and 2 Unknown. Of the individuals hired, 168 were female. Forty-nine individuals were promoted during the audit period: 3 Caucasians, 36 African Americans, 9 Hispanics, and 1 Asian. Of the employees promoted, 25 were female. (Appendix 4)

The DJJ reports that 296 full-time employees were involuntarily separated during the audit period: 14 Caucasians, 223 African-Americans, 53 Hispanics, 5 Asians, and 1 Unknown. One hundred and forty-seven of those individuals were female. Between July 2005 and June 2007, the total number of employees grew from 695 to 783 which represents an 11% increase. The number of African-American employees increased by 2% from 577-587, Hispanic employees decreased by 3% from 122-118, and Asian employees decreased by 38% from 13-8.

## **Discrimination Complaint Activity During the Audit Period**

During the audit period, seven internal discrimination complaints were filed: two were race based, two were sexual harassment, and the remaining three were sexual orientation, age and gender based. The EEO Officer completed and issued reports for all seven of these complaints; four received no probable cause determinations and three were substantiated. There were eleven external complaints: three were sexual harassment, three were race based, three were retaliation cases, one religion, and one national origin. Five of the cases were determined to have no probable cause; three were determined to have probable cause; two were still open, and one was pending a decision.

## **PRELIMINARY DETERMINATION**

Following are our preliminary determinations with required corrective actions and recommendations pursuant to the audit.

### *Plan Dissemination – Internally*

The DJJ is in compliance with the following requirements:

1. The DJJ distributes the Citywide EEO Policy once annually to all employees; that document is accompanied by the Mayor's policy statement and the DJJ's Commissioner's policy statement. In addition, the policies are distributed at new employee orientation and EEO training sessions, and posted on DJJ's bulletin boards. In addition, 81% of the employees surveyed by the EEOC indicated they had received the EEO policy.
2. According to the agency's EEO Counselor and 79% of the employees surveyed, the DJJ's EEO Policies are posted on agency bulletin boards. The EEO Officer continually checks and maintains the boards to ensure the EEO information is clearly posted and current.

## **Plan Dissemination – Externally**

The DJJ is in compliance with the following requirement:

All three job advertisements and five job vacancy notices submitted by the agency indicate that the DJJ is an equal opportunity employer.

## **EEO and Reasonable Accommodation for Persons with Disabilities**

The DJJ is in compliance with the following requirements:

1. The DJJ has provided accommodations for employees with disabilities, such as schedule changes, exemption from overtime due to medical conditions, and special chairs.
2. The DJJ's training sessions includes a section on the 55-A program. The agency also includes a paragraph on the 55-A program in its EEO Policy handbook. Currently, one employee participates in the program.
3. The DJJ's EEO officer is also the agency's disability rights and reasonable accommodations coordinator.
4. The DJJ's responses to the EEPC's accessibility for persons with disabilities checklist indicates that the DJJ's central office, Bridges, Crossroads, and Horizon facilities are accessible to, and useable by, persons with disabilities.

## **Discrimination Complaint and Investigation Procedures**

The DJJ is in compliance with the following requirements:

1. The EEO officer maintains and updates a monthly log of discrimination complaints filed against the agency.
2. The DJJ's EEO officer and EEO counselors have all attended the basic training course for EEO professionals conducted by the Department of Citywide Administrative Services (DCAS).
3. The agency has identified its EEO staff by posting their names and numbers in the EEO Policy handbook, and on bulletin boards.
4. The DJJ appointed two EEO representatives who are not of the same gender (female EEO officer and male EEO counselor) to receive and investigate discrimination complaints.
5. The agency head has signed each confidential report to indicate that it has been reviewed and the recommendation, if any, is approved and adopted.

## **EEO Training**

The DJJ is in compliance with the following requirement:

The DJJ provides EEO refresher courses and new hire training on an ongoing basis. In 2005, DJJ held 5 agency-wide EEO training sessions, where approximately 64 employees were trained. The training focused on Federal, State, and City EEO laws, sexual harassment, ADA review, diversity initiatives, and an overview of the internal complaint procedure. In 2006, DJJ conducted 19 EEO training sessions where approximately 92 employees were trained. In 2007, DJJ conducted 22 EEO training sessions where approximately 114 employees were trained.

### **Underutilization**

The DJJ's CEEDS data indicated persistent underutilization of at least one "protected" class in five job groups. (See Appendix 5 for underutilizations at the beginning and end of the audit period.)

Following is an analysis of personnel activity in these job groups.

#### EEO Job Groups / Hires and Promotions:

Management Specialists (003): Asians and Females were underutilized in this job group throughout the audit period. Eleven individuals were hired into this job group: 7 African Americans, and 4 Hispanics; of the eleven 7 were female. Three employees were promoted to or within this job group: 2 African Americans, and 1 Hispanics. There was 1 female.

Social Workers (007) Females were underutilized in this group throughout the audit period. Two hundred and thirty-five individuals were hired into this job group: 8 Caucasians, 193 African Americans, 31 Hispanics, 1 Asian, and 2 unknown. One hundred and thirty-two were female. Eighteen employees were promoted to or within this job group: 16 African Americans, and 2 Hispanics. Seven were Female

Food Preparation (020) Hispanics, Native-Americans, and Females were underutilized during the audit period. No individuals were hired or promoted into this job group during the audit period.

Health Services (021) Females were underutilized in this group throughout the audit period. No individuals were hired or promoted into this job group during the audit period.

Craft (025) Females were underutilized in this group throughout the audit period. Two individuals were promoted into this job group: 1 African American, 1 Hispanic, and no Females. No individuals were promoted into this job group during the audit period.

### **Addressing Underutilization**

The DJJ is in partial compliance with the following requirement:

The DJJ's CEEDS data indicated the underutilization of Hispanics, Asians, Native Americans and females. To address this underutilization, the DJJ in conjunction with John Jay College of Criminal Justice held two job fairs which focused on the recruitment of minorities and women.

Recommendation: Since the DJJ's workforce continues to show underutilization in certain protected groups, it should further expand its recruitment efforts to address underutilization by acquiring "Making the Most of New York City's Recruitment Resources," 2004, [http://extranet.dcas.nycnet/eeo/pdf/apomasterclass\\_recruitment.pdf](http://extranet.dcas.nycnet/eeo/pdf/apomasterclass_recruitment.pdf), a list of recruitment sources compiled by DCAS. This publication provides agencies with recruitment resources to address the underutilization of protected groups. (Sect. IV, EEOP)

### **Selection**

The DJJ is in compliance with the following requirement:

According to DJJ's EEO officer, the agency's hiring personnel have attended DCAS's structured interview training.

The DJJ is not in compliance with the following requirement:

According to the DJJ's EEO officer, the agency did not conduct adverse impact studies during the audit period. The DJJ's EEO officer sent a letter to DCAS requesting training on conducting adverse impact studies. The DCAS said that the DJJ's EEO officer attended an adverse impact training session that was conducted at New York City Law Department, and that DCAS has fulfilled its responsibility.

Recommendation: Since the EEOP requires that city agencies assess the manner in which candidates are selected for employment to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group, DJJ should conduct an adverse impact study. (Section IV, EEOP).

### **Promotional Opportunities**

The DJJ is in compliance with the following requirements:

1. The DJJ uses the DCAS-designed managerial performance evaluation form which contains a rating for EEO.
2. The DJJ has appointed an individual familiar with civil service and provisional jobs to serve as career counselor. During the audit period, the supervisor of the employee processing unit served as the agency's career counselor.

## **EEO Officer Reporting Arrangement**

The DJJ is in compliance with the following requirement:

The EEO officer reports to the Commissioner, and meets with him monthly.

The DJJ is in compliance with the following requirement:

The EEO officer provided copies of the notes of her monthly meetings with the Commissioner.

## **Supervisory Responsibility in EEO Plan Implementation**

The DJJ is in compliance with the following requirement:

The EEO officer informed EEPC auditors that she has instructed managers and supervisors to discuss the department's EEO policies with their subordinates.

## **EEO Officer Responsibilities**

The DJJ is in compliance with the following requirements:

1. The DJJ's EEO officer spends 100% of her time on EEO matters.
2. The DJJ's EEO officer is involved in the agency's recruitment process; she assists with developing recruitment strategies, selecting recruitment media and hiring.

## **Special Contingencies:**

1. Thirty-three percent of respondents to EEPC's employee survey (who have been employed for over a year), indicated that they have not received performance evaluations on an annual basis. Corrective action is required.

Recommendation: All staff, managerial and non-managerial, should receive an annual performance evaluation. ("Personnel Rules and Regulations of NYC", p. 59; "Managerial Performance Evaluation, Guidelines for Evaluating Managerial Performance in NYC Agencies", p. 1; and Sect. VI (B)(7), EEOP). DJJ should therefore develop a plan to evaluate all employees annually.

2. Although DJJ has appointed an individual familiar with civil service and provisional jobs to serve as career counselor, 71% of respondents to an EEPC survey indicated that they did not know who is responsible for career counseling. Corrective action is required.

Recommendation: DJJ should re-distribute information about the identity, location and telephone number of the career counselor to all agency employees. (Sect. IV, EEOP)

## SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. Since DJJ's workforce continues to show underutilization in certain protected groups, it should further expand its recruitment efforts to address underutilization by acquiring "Making the Most of New York City's Recruitment Resources," 2004, [http://extranet.dcas.nycnet/eo/pdf/apomasterclass\\_recruitment.pdf](http://extranet.dcas.nycnet/eo/pdf/apomasterclass_recruitment.pdf), a list of recruitment sources compiled by DCAS. This publication provides agencies with additional recruitment resources to address the underutilization of protected groups.
2. DJJ should conduct adverse impact studies.
3. DJJ should re-distribute information about the identity, location, and telephone number of the career counselor to all agency employees.
4. DJJ should develop a plan to evaluate all employees annually.

In addition to the above recommendations, during the compliance process, the Commission requires that the agency head distribute a memorandum to all staff informing them of the changes that are being implemented in the agency's EEO program pursuant to the audit. This memorandum should re-emphasize the agency head's commitment to the agency's Equal Employment Opportunity Program.

### Conclusion

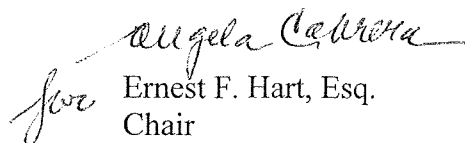
Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to EEPC's audit of DJJ's compliance with its Equal Employment Opportunity Policy, and EEO standards expressed in the Citywide EEO Policy, we respectfully request your response to the aforementioned preliminary determinations.

Your response should indicate what corrective actions your office will take to bring the agency in compliance with the aforementioned policies and which recommendations it intends to follow. Please forward your response within thirty days of receipt of this letter.

Pursuant to Section 832 of the New York City Charter, as amended in 1999, if you do not implement all of these recommendations for corrective actions during a compliance period not to exceed six months, this Commission may publish a report and recommend to the Mayor the appropriate corrective actions that you should implement in your agency's EEO Plan.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's auditors during the course of this audit. If you have any questions regarding these preliminary determinations, please let us know.

Sincerely,

  
Ernest F. Hart, Esq.  
Chair



APPENDIX - 1

Department of Juvenile Justice  
EMPLOYEE SURVEY RESULTS

A. GENERAL OVERVIEW

1. Do you know who your agency's EEO Officer is?  
Yes (43) No (15)
2. Is your agency's EEO Policy Statement posted on your agency's bulletin boards?  
Yes (46) No (12)
3. Were you given the EEO Policy Statement?  
Yes (47) No (3) Do not remember (8)
4. Were you given a copy of the EEO Policy Handbook – *About EEO: What You Need to Know*?  
Yes (50) No (8)
5. Do you agree with the principles of equal employment opportunity?  
Yes (58) No (0)
6. Do you believe your agency practices equal employment opportunity?  
Yes (30) No (28)
7. Do you know what the City's Equal Employment Opportunity Policy (EEOP) is?  
Yes (41) No (17)
8. Has your supervisor emphasized his/her commitment to the agency's EEO policies at any staff meeting during the past 8 months?  
Yes (16) No (33) Do not remember (9)
9. When you started working at your agency, did you attend an orientation session?  
If No, please skip to question #11.  
Yes (58) No (0) Do not remember (0)
10. If hired within the past 12 months, did your orientation session include information on your rights and responsibilities under the EEO Policy?  
Yes (27) No (0) Do not remember -(5)

B. EEO COMPLAINTS

11. Do you know how to file an EEO complaint?  
Yes (49) No (9)
12. If you had an EEO complaint, would you bring it to your agency's EEO Office?  
Yes (24) No (18) Undecided (16)

**(AGENCY) SURVEY RESULTS CONTINUED**

13. Would you prefer to file an EEO complaint with an office outside your agency?  
Yes (37) No (10) Undecided (11)

14. Did you ever file an EEO complaint with your agency's EEO Office?  
If No, please skip to question #18.  
Yes (12) No (46)

15. What was the basis of the complaint?

Age (0)	Partnership Status (0)
Alienage or Citizen Status (0)	Predisposing genetic characteristic (0)
Arrest or Conviction Record (0)	Race (6)
Color (0)	Sexual Harassment (0)
Creed (0)	Sexual Orientation (0)
Disability (2)	Veteran's Status (0)
Gender (incl. gender identity) -(1)	Victim of Domestic Violence, Stalking, and Sex Offenses (0)
Marital Status (0)	Other (3)
Military Status (0)	
National Origin (0)	

16. Were you satisfied with the manner in which your complaint was managed?  
Yes -(2) No (10)

17. Was your manager or supervisor supportive of your right to file a complaint?  
Yes (2) No (10) Not Applicable (0)

**C. EEO TRAINING**

18. Did you receive EEO training? If No, please skip to question #20.  
Yes (55) No (3)

19. Did you find this training helpful?  
Very (22) Somewhat (27)  
Not really (3) Waste of time (3)

**D. JOB PERFORMANCE/ADVANCEMENT**

20. Did you see your agency's job postings on agency bulletin boards for vacant positions prior to the application deadline?  
Yes (47) No (8) Do not remember (3)

21. If you were employed at your agency for over one year, did you receive annual evaluations?  
If No, skip to question #24.  
Yes (36) No (19) Not employed for >1 year (3)

22. Did your evaluation contain recommendations for improving your job performance?  
Yes (18) No (18)

**(AGENCY) SURVEY RESULTS CONTINUED**

23. Did your evaluation contain recommendations for career advancement with your agency?

Yes (13)            No (23)

24. Do you know the name of the person in your agency who is responsible for providing career counseling?

Yes (17)            No (41)

**E. AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES**

25. Are your agency's facilities accessible for persons with disabilities?

Yes (26)            No (17)            Don't Know (15)

26. Did you ever ask for an accommodation for a physical or mental disability?

If No, skip to question #28.

Yes (2)            No (56)

27. Did the agency accommodate you?

Yes (2)            No (0)

**OPTIONAL**

28. What is your race/ethnicity?

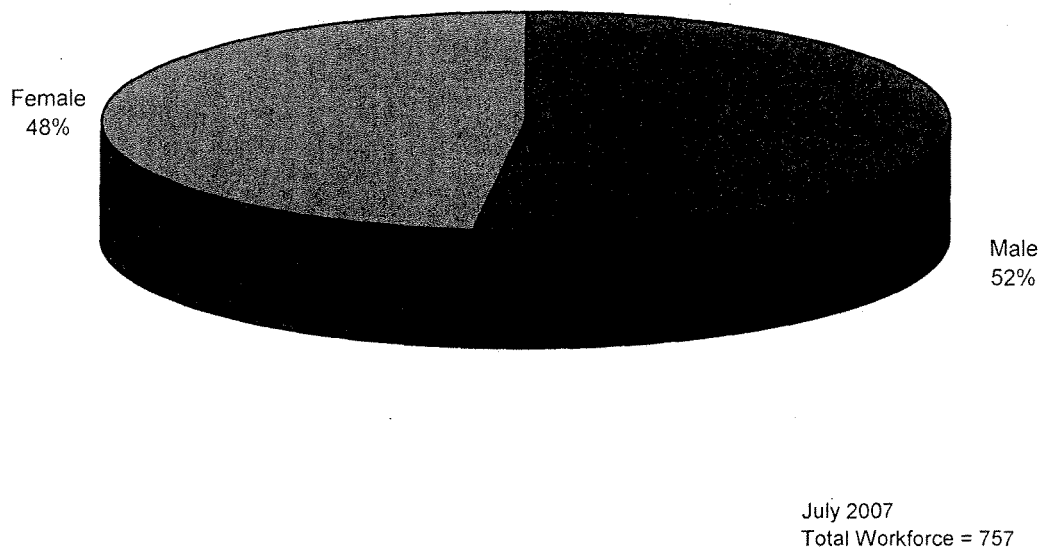
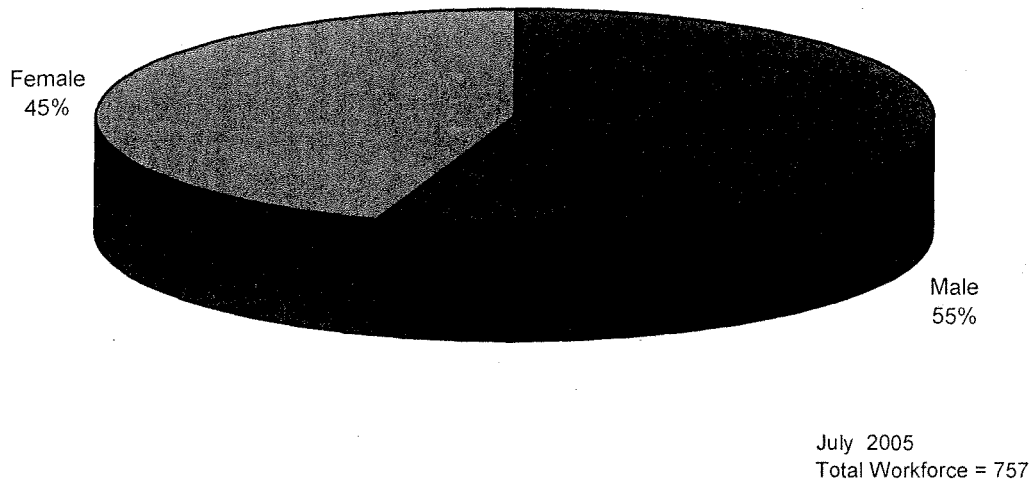
Asian (0)	Native American (0)
Black (43)	White (4)
Hispanic (5)	Other (0)

29. What is your gender?

Male (27)        Female (27)

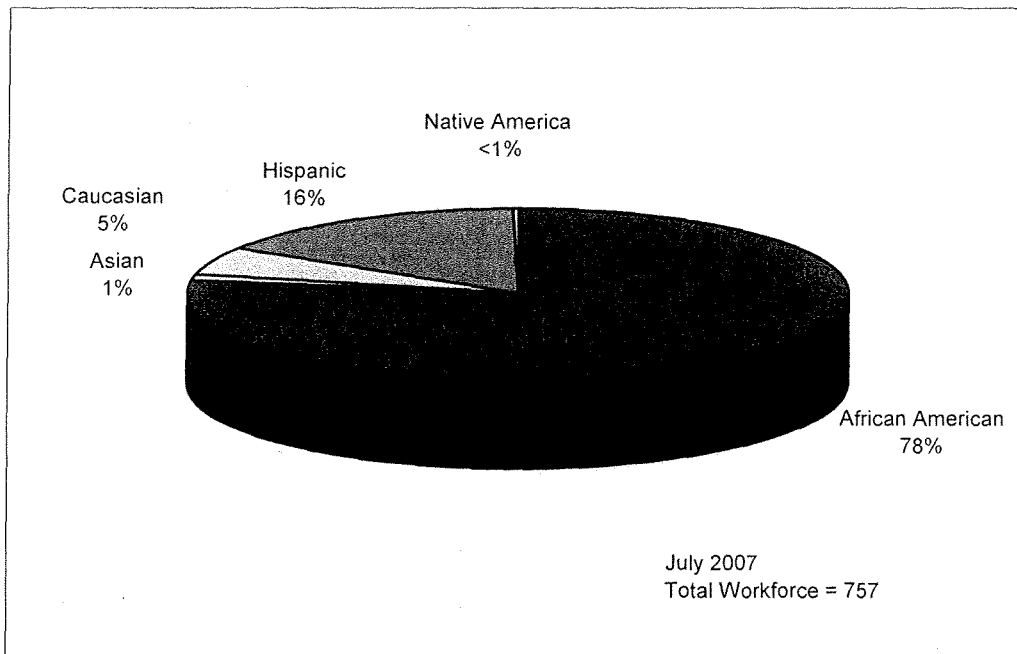
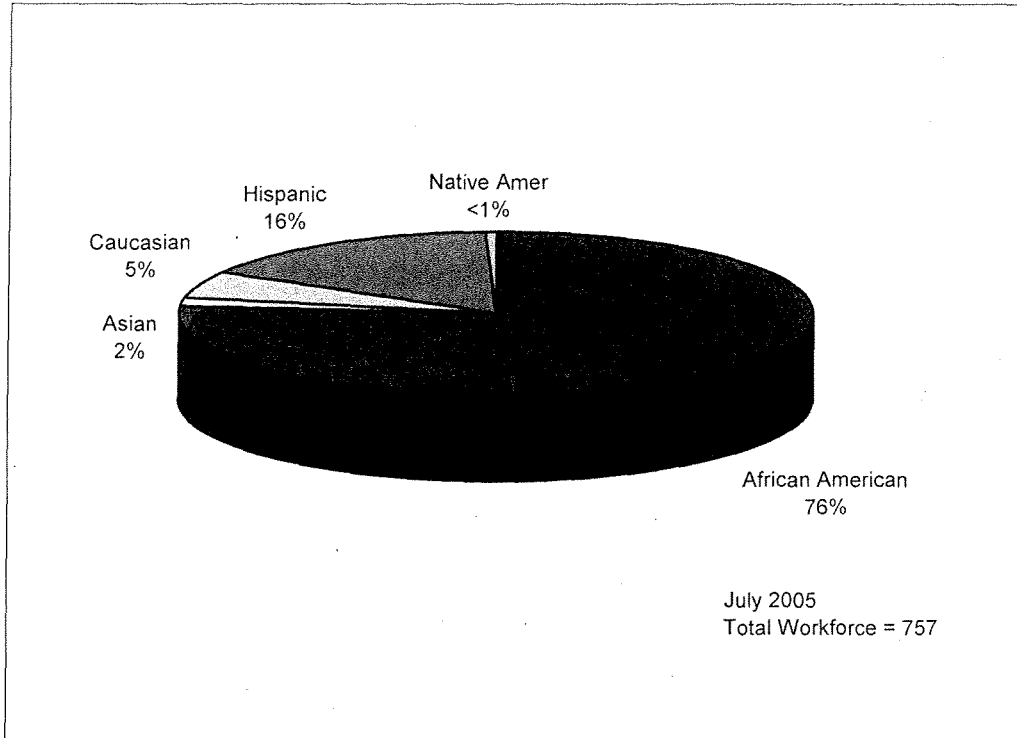
# Appendix - 2

## Department of Juvenile Justice Workforce by Sex



Appendix - 3

Department of Juvenile Justice  
Workforce by Ethnicity



## APPENDIX – 4

The following table indicates personnel activity during the audit period, July 1, 2005 to June 30, 2007

### Department of Juvenile Justice

#### Hires by Sex and Ethnicity

Total Hires: 300

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
132	168	300	15	235	47	1	2	300

#### Promotions by Sex and Ethnicity

Total Promotions:

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
24	25	49	3	36	9	1	0	49

#### Separations by Sex and Ethnicity

Total Separations:

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
149	147	296	14	223	53	5	1	296

Source: Audit data supplied by Dept. of Citywide Administrative Services

**Appendix 5**

**Department of Juvenile Justice  
CEEDS UNDERUTILIZATION CHART  
Apr. 1, 2005 - Dec. 31, 2007**

Quarter:		2Q/2005	3Q/2005	4Q/2005	1Q/2006	2Q/2006	3Q/2006	4Q/2006	1Q/2007	2Q/2007
		(Apr-Jun)	(Jul-Sep)	(Oct-Dec)	(Jan-Mar)	(Apr-Jun)	(Jul-Sep)	(Oct-Dec)	(Jan-Mar)	(Apr-Jun)
Job Group	Protected Class									
003 Mngmt Specs	Afr. Am.									
	Asian	X								
	Hisp.									
	Nat. Am.									
	Female		X	X		X				
007 Social Workers	Afr. Am.									
	Asian									
	Hisp.									
	Nat. Am.									
	Female	X	X	X	X		X	X	X	X
020 Food Prep	Afr. Am.									
	Asian									
	Hisp.	X	X	X	X	X	X	X	X	X
	Nat. Am.	X	X	X	X	X	X	X	X	X
	Female							X	X	X

X= Underutilization

**Appendix 5**

**Department of Juvenile Justice  
CEEDS UNDERUTILIZATION CHART**

Apr. 1, 2005 - Dec. 31, 2007

Quarter:		2Q/2005	3Q/2005	4Q/2005	1Q/2006	2Q/2006	3Q/2006	4Q/2006	1Q/2007	2Q/2007
		(Apr-Jun)	(Jul-Sep)	(Oct-Dec)	(Jan-Mar)	(Apr-Jun)	(Jul-Sep)	(Oct-Dec)	(Jan-Mar)	(Apr-Jun)
Job Group	Protected Class									
021 Health Services	Afr. Am.									
	Asian									
	Hisp.									
	Nat. Am.									
	Female	X	X	X	X	X	X	X	X	X
025 Craft	Afr. Am.									
	Asian									
	Hisp.									
	Nat. Am.									
	Female	X	X	X			X	X	X	X

X= Underutilization



**Appendix 5**

**Department of Juvenile Justice  
CEEDS UNDERUTILIZATION CHART**

Apr. 1, 2005 - Dec. 31, 2007

		Quarter:	3Q/2007	4Q/2007
			(Jul-Sep)	(Oct-Dec)
Job	Group	Protected Class		
003	Mngmt Specs	Afr. Am.		
		Asian		
		Hisp.		
		Nat. Am.		
		Female		
007	Social Workers	Afr. Am.		
		Asian		
		Hisp.		
		Nat. Am.		
		Female	X	X
020	Food Prep	Afr. Am.		
		Asian		
		Hisp.	X	X
		Nat. Am.	X	X
		Female	X	X

		Quarter:	3Q/2007	4Q/2007
			(Jul-Sep)	(Oct-Dec)
Job	Group	Protected Class		
021	Health Services	Afr. Am.		
		Asian		
		Hisp.		
		Nat. Am.		
		Female	X	X
025	Craft	Afr. Am.		
		Asian		
		Hisp.		
		Nat. Am.		
		Female	X	X

X= Underutilization