

POLICED BY THE WHITE MALE MINORITY

**A Study of Police-Community Relations
in Miami and Dade County, Florida**

A report prepared by the Florida
Advisory Committee to the U.S.
Commission on Civil Rights

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The findings and recommendations contained in this report are those of the Florida Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission.

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LETTER OF TRANSMITTAL

FLORIDA ADVISORY COMMITTEE TO THE
U.S. COMMISSION ON CIVIL RIGHTS
October 1976

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Sirs and Madam:

The Florida Advisory Committee submits this report, Policed by the White Male Minority: A Study of Police-Community Relations in Miami and Dade County, as part of its responsibility to advise the Commission about civil rights problems within this State.

This report deals with the recruitment, hiring, training, and promotion of police officers; the internal review process which investigates complaints against police; and the tenor of relations which exist between police and the persons they are sworn to serve and protect.

A major conviction of the Advisory Committee is that a police department best serves the community when the composition of its force, at all levels, reflects the composition of the public it serves. This is particularly true in the Miami and Dade County area which has a diverse racial, cultural, and ethnic composition. Attainment of such a force is necessary not only to demonstrate equal employment opportunity for all, but also to achieve and maintain healthy police-community relations.

Despite the composition of the community, both the sworn forces of the Miami Police Department and the Dade County Department of Public Safety are predominantly white and virtually all male. Further, despite some recent improvement in minority and female hiring, minorities and

females remain virtually unrepresented in the higher salaried, decisionmaking positions of both departments. Despite the sum total of current efforts, much remains to be done by both departments to ensure adequate and timely representation of minorities and women at all levels within the two police forces.

Data to support the findings of this report were gathered from numerous police, city and county officials, residents, and local community leaders. More than 40 persons participated in an Advisory Committee open meeting held in Miami, June 20-21, 1975. In addition, numerous local officials submitted written comments when given the opportunity to review drafts of the report.

The ambitious study of two police departments, which serve approximately 1.4 million people, was made more complex by two Federal district court consent decrees which resulted from suits against the city of Miami alleging discrimination in hiring and promotion.

This Advisory Committee developed numerous recommendations based on the extensive findings of this study. They are directed to the Attorney General of Florida, Miami City Commission, Miami police chief, the Dade County Commission, Dade County director of public safety, and the Southeast Florida Institute of Criminal Justice. Also, the Advisory Committee makes specific recommendations to the U.S. Commission on Civil Rights to be transmitted to the Attorney General, U.S. Department of Justice.

We urge you to concur with our recommendations and to assist this Advisory Committee in its followup activities.

Respectfully,

/s/

Ted Nichols
Chairperson

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The Advisory Committee wishes to thank the staff of the Commission's Southern Regional Office, Atlanta, Georgia, for its help in the preparation of this report.

The investigation and report were the principal staff assignment of Courtney P. Siceloff. Research and writing assistance were provided by M. Kay Harris, legal review by Mark G. Schneider and support from Portia P. Raby and Joan R. Harper. All worked under the guidance of Bobby D. Doctor, regional director.

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THE STATE ADVISORY COMMITTEES

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I. INTRODUCTION

84 The turmoil of the 1960s, with the assassinations of Dr. King and the Kennedys, brought violence to almost every major American city. The country's urban poor and its minorities struck out at the establishments which had long denied them equal opportunity in this land of plenty.

95 Miami and Dade County were not exceptions. Indeed, the urban problems faced by this world-famous vacationland were intensified by its citizenry, a unique mix of races, cultures, rich, and poor.

A-1 The increased contact between law enforcement officials and citizens during those troubled years made relations with local police a major concern of human rights groups. The B-1 Florida Advisory Committee to the U.S. Commission on Civil C-1 Rights agreed in 1971 that police-community relations was a D-1 critical civil rights issue in Florida. Since then, studies E-1 of police have been conducted in Tampa (1972) and Jacksonville (1975).

14 The Miami and Dade County study was designed to review hiring and promotion practices, and the relationships between local police and the citizens they serve. Because 29 Miami and Dade County police receive funds from the Law Enforcement Assistance Administration (LEAA), Office of Revenue Sharing, and other Federal sources, they are 31 obligated to follow prescribed affirmative action and equal opportunity procedures.¹ In addition, the concept that 52 minorities and women in a given community are better served when they are equally represented in the law enforcement field is a concept supported by the Advisory Committee. The U.S. District Court for the Southern District of Florida in Cohen v. City of Miami² and United States v. City of Miami³ 54 has endorsed this concept.⁴

How police services were provided in a bilingual community where the cultures of Latins, Anglos, and blacks coexist was of special interest to the Advisory Committee. Police personnel, local government officials, community leaders, representatives of media, and citizens were interviewed in the course of the study. A 2-day open meeting was held in Miami, June 20-21, 1975. More than 40 persons came before the Advisory Committee to talk about police-community relations. Written materials and data

provided by government and police officials have been analyzed and evaluated. Throughout this report, unless otherwise noted, statistics for the Dade County Department of Public Safety were furnished by that department; statistics on Miami police were provided by the Miami Police Department.

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Notes to Chapter I

1. See Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000c et seq.), as amended by the Equal Employment Opportunity Act of 1972 (Pub. L. 92-261) (1972); the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. §3766), as amended; and the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. §1221 et seq.), as amended.
2. Cohen v. City of Miami, Civil No. 71-1887 (S.D. Fla., issued Sept. 14, 1973; Roettger, J.) (hereafter referred to as Cohen). This action resulted in a "Partial Final Order" (also referred to as "Consent Decree" by the court) pursuant to joint agreement of parties to suit.
3. United States v. City of Miami, Civil No. 15-3096 (S.D. Fla., issued Feb. 18, 1976; Eaton, J.) (hereafter referred to as U.S. v. Miami). This action resulted in a "Consent Decree" pursuant to joint agreement of parties to suit.
4. The consent decree issued in Cohen, regarding police hiring practices, does not include the subject of hiring of women. The consent decree in U.S. v. Miami specifically proscribes sex discrimination in all city employment. See full texts of the court orders in both cases in appendices C and D respectively, and discussion in chapter III, section entitled "Court Action: Cohen and Miami Consent Decrees."

II. BACKGROUND

Miami-Dade: A Unique Region

An understanding of the unique characteristics of Miami-Dade County is essential to the study of police-community relations. To be effective, police must be responsive to the needs of the community---no matter how diversified. Tourists, migrants, senior citizens, blacks, and Latins are important parts of the unique Miami-Dade County character.

In recent years Miami-Dade County has maintained one of the fastest growth rates among U.S. metropolitan areas. The population has increased 35 percent since 1960. Persons over the age of 75 compose the fastest growing segment of the population. In the last decade it has increased 128 percent.¹ Many of those individuals move to the area to retire on what are often inadequate fixed incomes. The influx of migrant farm workers each harvest season adds more diversity to the population.

Of the 350,000 city residents, 52 percent or 182,000 are Spanish speaking, and 23 percent or 76,000 are black. Among the county's 1,400,000 residents, 33 percent or 462,000 are Spanish speaking, and 15 percent or 210,000 are black.² Local officials find it difficult to maintain up-to-date statistics because of the continuing trend of Cubans who had settled elsewhere in the U.S. to relocate in Miami.

Two market surveys released in June of 1975 predict a substantial increase in the Latin population of Miami-Dade County: from a 1975 estimate of 490,000 Latins³ to 684,000, or 41 percent, by 1980---an increase of nearly 200,000. It is estimated that the black population will increase from the 1975 estimate of 233,800 to 261,000, or 16 percent, by 1980. The Anglo⁴ population is expected to decline from the 1975 estimate of 765,500 to 717,000, or 43 percent, by 1980---a decrease of 48,500.⁵ It should be noted that these 1975 population estimates for Latins, blacks, and Anglos are substantially higher than the estimates made by the Dade County Department of Community Analysis that were used in the preceding paragraph.

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Notes to Chapter II

1. Dade County Community Relations Board, The Citizens Almanac, a Report for the People (1975), p. 51.
2. Dade County Department of Community Analysis, Metropolitan Area of Dade County, 1975, Census Data Extract.
3. Latin refers to the Spanish-speaking and Spanish-surnamed population.
4. Anglo refers to all persons exclusive of Latins and blacks.
5. Miami Herald, June 2, 1975, p. A-20.

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III. THE MIAMI POLICE DEPARTMENT

Entry of Minorities to the Force

Minorities and females struggled in the past for identity; now they struggle for equality in the largely white-male Miami Police Department. Blacks have had the most difficult time. Court suits were eventually filed. In 1976 the U.S. Department of Justice and the Office of Revenue Sharing of the U.S. Department of the Treasury were requiring substantial changes in personnel for the city to continue to receive Federal funds. These required changes were not limited to the sworn forces but included all city departments.¹

Blacks were first hired for the sworn police force in September 1944. Blacks were called "patrolmen" while whites were called "policemen." Black patrolmen were assigned to black precincts and could arrest only black citizens. Blacks could not be promoted beyond the rank of sergeant and were not permitted to attend the police training institute.

Evidence from the Miami Police Department is conflicting as to whether blacks were historically paid less than whites. From a prepared statement submitted at the open meeting, Police Chief Garland Watkins stated that, prior to 1960, "There were inequities in compensation between white and black officers." And, in that same statement, he cites a survey of the department by the International Association of Chiefs of Police that recommended that "...all officers be classified as police officers with equal pay and benefits...." In an August 1976 letter, however, Acting Police Chief (in temporary absence of Chief Watkins) Kenneth Fox responded that, according to personnel records from 1944, blacks were paid on an equal basis with whites based upon their entrance salaries.²

The first black to attain the rank of lieutenant did so in 1966; a second in 1968; another did not reach that rank until 7 years later in 1975.

Latins were regarded as white officers; no restrictions were placed on their arrest authority or on attendance at the police institute. It was not possible to date their entry into the force.³ However, no Latin achieved promotion beyond the rank of sergeant until 1975.

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The first woman joined the force in 1949. The entrance requirements, titles, and assignments differed from those of the men. Women were required to have college degrees, and the agility tests were less demanding than for men. Two women have become sergeants since 1967; subsequently, one has left the sworn force.

Court Action: Cohen and Miami Consent Decrees

Two suits, both ending in consent decrees, have affected and will continue to affect the structure and organization of the Miami Police Department. The combined result of the two consent decrees was that the city of Miami agreed to achieve, at a minimum, participation at all levels of the police department by minorities and women in numbers approximating their respective proportions in the city's labor force.

Cohen Consent Decree

The first suit, known as the Cohen consent decree,⁴ was a class action suit filed by black policemen alleging discrimination by officials of the city of Miami in recruitment, pay, promotion, and work assignments of black police officers. This partial final settlement, as described by Presiding Judge N. Roettger, signed October 15, 1973, was limited to minority male police officers.

Provisions of the 1973 Cohen decision called for a black officer to be appointed to a decisionmaking position; an independent agency to be hired to devise, administer, and score both entrance and promotional tests; the Dade County Medical Association to assist in establishing new medical standards for police officers; and the hiring of black officers over the following 5 years until their numbers approximated the percentage of blacks in the Miami population. The order stated that the city was to hire persons from other minority groups in the same manner as it hired black officers. Sex discrimination was not mentioned in the decree. The city manager was given responsibility for implementing the order.

The city moved promptly in regard to two provisions of the court order. Lieutenant Leroy Smith, a black man, was appointed to the rank of major and the Industrial Relations Center (IRC) of the University of Chicago was hired as the

agency to devise, administer, and score entrance and promotional tests.

Some controversy arose over the phrase in the court order that the city hire persons from other minority groups in the same manner as it hired blacks, i.e., in proportion to their representation in the population. The Advisory Committee's investigation raised the issue of including Latins in the court's prescribed hiring ratios.

Persons with a Latin background are actually the majority in Miami, composing an estimated 52 percent of the population---twice the number of either blacks or whites.⁵ It was not until the Advisory Committee began the background investigative research in 1974, followed by three Miami City Commission hearings in November 1974 on the police department and the subsequent appointment of a new police chief, that the Latin minority issue was resolved. At that time the city officially interpreted the consent decree to cover the employment of Latins in proportion to their city representation and clarified the role of the city manager and other agencies in the implementation of the order. In addition, the police department began reviewing all procedures in the employment of officers in order to eliminate whatever cultural biases may have existed.

There were no personnel records available by race and sex at the time of the consent decree, September 1973. Apparently, on the advice of the Miami Civil Service Board, such records were not maintained as a good-faith effort at avoiding any appearance of discrimination in the department's personnel practices. Little gain in hiring minority personnel was made during the first year of the court order. By October 1974 only 2 black females and 13 Latin males had been added. Under the new police chief, Garland Watkins, things began to change. Chief Bernard Garmire resigned November 1, 1974, during the period of city commission hearings. Garland Watkins, who had come up through the ranks of the Miami department, was named chief in January 1975. Chief Watkins set a new style by wearing the uniform, occasionally going on patrol, and meeting unobtrusively with community leaders. The court requirement to validate entrance and promotional tests was contracted to the Industrial Relations Center of the University of Chicago by the city of Miami.⁶ In addition, the chief requested the IRC to validate all hiring procedures used in the department.

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Though the Cohen decree was issued in September 1973, the matter of who was responsible for implementing the order was not clarified until November 1974, when the city commissioners held hearings to investigate the police department. The Miami city manager was charged through the consent decree to implement the order. However, the city attorney, John Lloyd, advised the Miami City Commission and its manager, Paul Andrews, that, insofar as the civil service board and the industrial relations center were concerned, the manager was to coordinate efforts to implement the order.⁷ Under the city charter, the manager already had authority over the police department. He was therefore responsible for implementing portions of the court order which related to that department. Mr. Andrews estimated that at the end of the 5 years given by the court to hire minorities, the city would have achieved the goal for black officers (23 percent of the sworn force) but would have only reached 40 percent for Latin sworn personnel, instead of the goal of 52 percent. (Transcript, vol. IIb, pp. 118, 119.)

Miami Consent Decree

The second suit was filed in late 1975 by the U.S. Department of Justice against the city of Miami.⁸ Allegations included discrimination in the employment and promotion of both minorities and women. Certain provisions of the suit dealt specifically with the police department. The police department alone had received more than \$642,000 in fiscal year 1974 and more than \$326,000 in fiscal year 1975 from the Office of Revenue Sharing, U.S. Department of the Treasury. From the Law Enforcement Assistance Administration of the U.S. Department of Justice, the city police received more than \$882,000 in fiscal year 1975.⁹ The city itself stood to lose \$8.7 million in revenue sharing plus hundreds of thousands of dollars in other Federal money if it did not agree to change alleged practices of discrimination.

A consent decree was signed on February 18, 1976, by a Federal district judge. Some police department procedures which had been criticized by the Advisory Committee were dealt with in the decree. For example, as an annual goal, 56 percent of those hired would have had to have been women and minorities. Promotions within the department would have had to have been based on seniority and passing scores on a validated test, rather than simply on the top scores of the

exam. Back pay was to be available to minorities and women who would be hired or promoted if they belonged to an "affected class," i.e., if through discrimination they had previously been denied employment or promotion opportunities, or terminated since March 24, 1972, or had been initially assigned to traditionally minority or female jobs.¹⁰

Also, the city was to be required to apply again for Federal funds to maintain the Tri-Cultural Program (responsible for recruiting women and minorities). If no grant was received, the city was to be required to submit for approval of the U.S. Department of Justice a plan to recruit minorities and women and to help them prepare for the entrance and promotion tests. The application for continued funding proposed placing management of the program in the police department rather than the city manager's office. Such a program has not been funded.

On April 8, 1976, the Fraternal Order of Police (F.O.P.) obtained an injunction that temporarily set aside the consent decree due to an alleged conflict of interest between the decree and the F.O.P. bargaining agreement with the city. During April 1976, when the decree had been set aside temporarily, the city moved the recruitment function from the office of the city manager to the police department.¹¹ The U.S. Department of Justice was not consulted about this move. The consent decree was to be in effect for 5 years and would require a biannual report from the city to the Department of Justice. At the time of publication of this report, the proposed consent decree is still set aside by temporary injunction.

Both the Cohen and the U.S. v. Miami consent decrees deal with minority hiring and employment opportunities within the Miami Police Department. While it is understood that the U.S. v. Miami had no effect upon the jurisdiction and provision of Cohen, the extent, if any, to which provisions of Cohen may conflict or be incompatible with U.S. v. Miami had not been dealt with. The fact that U.S. v. Miami had been temporarily set aside has rendered any issue of its potential conflict with Cohen legally moot. Should the U.S. v. Miami consent decree be reinstated, however, at least two important areas of that decision would have to be dealt with in terms of compatibility with Cohen: the definition of hiring "goal"; and promotion of minorities and women.

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With regard to the definition of the hiring goal, Cohen calls for "...hiring of black [and other minority] officers...until their representation in the department approximates the percentage representation in the City of Miami community [emphasis added]."13 The hiring goal definition in U.S. v. Miami, however, provides that, "...the City shall adopt and seek to achieve as its long term goal the participation at all levels throughout its work force of blacks, Latins, and women approximating their respective proportions in the city labor force [emphasis added] as determined by the United States Bureau of the Census."14

There is more than a semantical distinction between the two phrases emphasized above. The phrase in Cohen pertains to a ratio of minorities hired in direct representation to the entire percentage of minorities within the Miami community. The phrase in U.S. v. Miami, however, is specifically restrictive to the Bureau of the Census definition of "labor force."15 If U.S. v. Miami is reinstated, the less inclusive "labor force" hiring goal therein would appear to come into direct conflict with the all-inclusive "community representation" goal of Cohen. In addition, while there is no conflict per se with the female hiring goal in U.S. v. Miami (as Cohen does not include the issue of female hiring), should U.S. v. Miami be reinstated, there would be a dissimilarity between the hiring goal for male minorities and the hiring goal for women.

It is reasonable to assume that, taken together, the two decrees were not intended to result in conflicting or separate "yard sticks" from which to measure minority and female hiring goals. Should U.S. v. Miami be reinstated as written, however, such ambiguity would exist.

Regardless of which goal is ultimately adopted for all minority and female hiring (and it would appear there are reasonable arguments, pro and con, for either goal), the ultimate objective, i.e., police department personnel that adequately reflect the department's constituency, can be achieved only if the minority and female hiring goals are based upon the same criterion as the hiring goal for white male officers, be it presence in the community or presence in the labor force.

At least one aspect regarding minority and female hiring is evident from the two decrees: At a minimum, the city of Miami has agreed to hire minorities and women in

numbers approximating their respective proportions in the city's labor force.

With regard to promotions, the Cohen consent decree states that promotional tests shall be validated and all persons who have passed will be placed on the promotional register. The register would be valid for 1 year and specifically would not be extended beyond that period.¹⁶ Cohen further provides that the examination give weight to seniority.¹⁷ U.S. v. Miami goes further by providing for an "affected class" (minorities and women who by discrimination had previously been denied employment opportunity or terminated since March 24, 1972, or who had been initially assigned to traditionally minority or female jobs)¹⁸ and providing that, on a seniority basis from within the affected class, members of the class will be given "priority opportunity for promotion."¹⁹ U.S. v. Miami further provides that each department, on a yearly basis, will have a goal of promoting minorities and women of the affected class to the extent that either parity with the Miami city work force or parity with the percentage of minorities and women currently employed (whichever is lower) is achieved.²⁰

The setting aside of an affected class, with priority for promotion and with minimum yearly goals (in U.S. v. Miami) would seem to be at odds with the procedure (in Cohen) of placing all qualified personnel on a promotional register, such register not to be extended beyond 1 year. Also, given the current "highest scored-first hired" practice that exists within the department (and not disallowed by Cohen) it would appear that the two decrees would further be at odds with regard to how and when minorities and women are to be promoted within the department. Possibly, this matter could be resolved by the establishment of two separate promotional registers, i.e., a separate promotional register from that addressed in Cohen which would give priority to promotion of members within the affected class. Regardless of the ultimate disposition of U.S. v. Miami, the city of Miami could voluntarily adopt the "affected class" procedure of that decree to remedy any past discriminatory actions upon that particular group of persons designated to be in the "affected class."

Sworn Force

Within the police department there are sworn officers, non-sworn uniformed civilian personnel, i.e., public service

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The personnel distribution by rank, race, and sex for May 1974 and April 1975 can be seen in exhibit I. It is of interest to examine numerical and percentage changes in the different categories of sworn personnel within the 11-month period. By April 1975, due to attrition, there were 29 fewer white males. Black males increased only by two. On the other hand, black female officers doubled to a total of 8, the first Latin female was added, and Latin males made the largest increase---29. No minority men or women held the rank of lieutenant in May 1974. The following April there were three Latins and one black but still no women. Progress for Latin men was the most significant, as these percentages of total sworn force indicate:

	<u>White</u>	<u>Black</u>	<u>Latin</u>	<u>Female</u>
May 1974	81.7	10.4	7.9	4.4
April 1975	77.4	11.0	11.6	5.0

A breakdown by race and sex in job assignment is shown in Appendix A: Sworn Personnel by Organizational Assignment. Though minorities and females constitute approximately one-fifth of the sworn personnel, they are noticeably underrepresented in certain units: criminal investigation, accident investigation, the three-wheeler (motorcycle) detail, and especially the internal security section. They do serve in the crucial area of personnel training.

Recruitment and Hiring

Until recently, there had been a limited effort to recruit blacks and no effort to recruit Latins and females. In 1968 a project to recruit blacks, "Operation Badge," was conducted by the city manager's office. Eleven blacks were added to the police force through this project---more than had been hired in the previous 9 years.²¹

Following the Cohen consent decree, the city applied for a 1-year \$300,000 grant from the Law Enforcement Assistance Administration (LEAA) to recruit Latins. However, the grant was denied until August 1974, when the city agreed to include blacks, other minorities, and women,

EXHIBIT I
Miami Police Sworn Personnel, May 1974 and April 1975

	<u>White</u>		<u>Black</u>		<u>Spanish</u>		<u>Total</u>
	M	F	M	F	M	F	
May 1974							
Chief of Police	1						1
Assistant Chief	2						2
Major	6		1				7
Captain	16						16
Lieutenant	26						26
Sergeant	140	1	13	0	9	0	163
Police Officer	379	23	54	4	38	0	498
Police Recruits	38	3	6	3	14	0	64
Total	608	27	74	7	61	0	777
Race as % of Total	81.7		10.4		7.9		
Females as % of Total	4.4						

	<u>White</u>		<u>Black</u>		<u>Spanish</u>		<u>Total</u>
	M	F	M	F	M	F	
April 1975							
Chief of Police	1						1
Assistant Chief	2						2
Major	6		1				7
Captain	15						15
Lieutenant	31		1		3		35
Sergeant	136	1	13		6		156
Police Officer	365	24	56	8	64		517
Police Recruits	23	3	5	2	17	1	52
Total	579	28	76	10	90	1	785
Race as % of Total	77.4		11		11.6		
Females as % of Total	5.0						

Source: City of Miami Police Department

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as well as white males in the program. (Transcript, vol. Ia, pp. 26-28.) Entitled "Law Enforcement Community Outreach and Career Program," but better known as the Tri-Cultural program, the program had three objectives: to prepare officers for promotional examinations, to recruit minorities and females for the department, and to assist recruits in passing requirements to become officers.

The promotional tutoring program established the goal of helping 40 officers to achieve a grade promotion. One hundred and six persons enrolled in the 7-week sessions to prepare for the sergeant or lieutenant examinations. Of that total, 80 (75.5 percent of the class) were white males, 15 (14.2 percent) were Latin males, 10 (9.4 percent) were black males, and 1 (0.9 percent) was female (white).

An exam for prospective sergeants was given in December 1974. Under the direction of the Industrial Relations Center of the University of Chicago, it was determined that 50 percent of those tested would be considered eligible for promotion. A list was compiled to rank those persons in order of test scores, from the highest to the lowest, and promotions were made beginning with the highest scorer. The Cohen decree limits the use of the list to 1 year. When the list expired, 27 persons of the 107 eligible had been promoted. Three were Latin males; 24 were white males. Based on the sergeant exam given in March 1976, 83 persons are eligible for promotion during the next 12-month period. One might project that 27 persons will once again be promoted, as in 1975. If so, one white female, two black males, and five Latin males will be among them.

The exam for promotion to lieutenant given in December 1974 qualified 52 persons for promotion. (The same rule for the sergeant exam, that 50 percent of those tested qualify, applied to this exam.) When the list expired, 21 persons had been promoted: 3 were Latin males, 1 was a black male, and 17 were white males. A lieutenant exam given in March 1976 qualified 33 persons for promotion. If the 1975 procedures are again used and 21 persons are promoted in 1976, 1 will be a black male, 1 a white female, and 19 will be white males. The procedures quite clearly do not result in affirmative action promotions.

The recruitment phase of the Tri-Cultural Program had a goal of enlisting 50 minority members and women in the force. Four neighborhood offices were established in Latin

and black communities and staffed by officers assigned to the program. In early 1975, 411 persons applied to take the entrance exam; 56 percent were recruited by the Tri-Cultural Program. Approximately one-third (132) of the persons recruited did not appear for the exam. The entrance exam was administered under the direction of the industrial relations center. Of the 279 who took the exam in April 1975, 110 passed:

	<u>White</u>		<u>Latin</u>		<u>Black</u>		<u>Total Female</u>	
	Took (%)	Passed (%)	Took (%)	Passed (%)	Took (%)	Passed (%)	Took (%)	Passed (%)
Male	16.1	22.7	33.7	34.6	29.7	19.1		
Female	5.4	8.2	4.3	5.4	10.8	10.0	20.4	23.6
Total	21.5	30.9	38.0	40.0	40.5	29.1		

Nearly half (54) of the recruits who passed the April 1975 exam did not become sworn officers.²² Twenty-four recruits were disqualified because of their "backgrounds."

The recruit exam given in January 1976 has, according to police officials, been validated (though some adjustments will be made in the future) and would meet Equal Employment Opportunity Commission guidelines for being job-related.²³ Validation was mandated by the Cohen decree (see appendix C). The exam includes both academic and psychological testing. Questions in the psychological section were developed from a survey of 383 Miami police officers.²⁴ Black males scored lowest on the test; white females and Latins highest. Of the 573 who took the exam, 106 passed:

	<u>White</u>		<u>Latin</u>		<u>Black</u>		<u>Total Female</u>	
	Took (%)	Passed (%)	Took (%)	Passed (%)	Took (%)	Passed (%)	Took (%)	Passed (%)
Male	14.2	17.9	37.6	41.5	22.0	8.5		
Female	7.9	17.0	5.0	4.7	13.3	10.4	26.3	32.1 ²⁵
Total	22.1	34.9	42.6	46.2	35.3	18.9		

Thus, on the two entrance exams, minorities and females have passed in approximately the same proportions as the aggregates of those taking the exams; black males have not. Among the 50 public service aides who took the exam, 35

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failed. Previously, all aides became police officers automatically after their 2-year apprentice program.

Police officials point out that 84 percent of those who passed the exam were minorities and women. Still, the overall high rate of failure (467 of 573) has brought criticism from the city commissioners. Dr. David Saunders of the industrial relations center responded by predicting that most of those new recruits would be acceptable police officers and would successfully complete the police institute rather than be "washed out" prior to entering the academy as had previously been the case.²⁶

The Tri-Cultural Program went beyond simply preparing police candidates for the written entrance exam. It helped those who passed the exam to pass other tests for officers, such as agility and swimming. Staff members provided counseling for Latinos who wished to become U.S. citizens---a requirement of State law for police officers.²⁷ Arrangements were made by the Tri-Cultural Program with the Manpower Program for 50 jobs so those who had passed the entrance exam could be employed while waiting for an opening in the police institute, the Southeast Florida Institute of Criminal Justice (see chapter V). Once enrolled in the institute, the candidates went on salary, but often weeks, and sometimes months, passed between the time of the entrance exam and acceptance into the police institute.

As of May 1, 1976, when the April 1975 register had been closed, all 110 persons on that register had begun or completed the process of exam-to-hiring-or-rejection. The following table displays data furnished by the Miami Police Department:

	<u>White</u>		<u>Black</u>		<u>Spanish</u>		<u>Total</u>
	M	F	M	F	M	F	
Graduated from institute	11	5	7	4	22	3	52
Enrolled in institute	1		2	1	2		6
Awaiting next class			1				1
In selection process			1	1		1	3
Disqualified	14	3	11	7	16	3	54
							<u>116*</u>

* Six were from a previous register.

Requirements for Entrance

Successful completion of the following requirements qualifies an individual as a police officer: a written entrance exam, a polygraph test, medical exam, physical agility and swimming tests, supplementary psychological testing, a background investigation, an exam by the oral review board, and graduation from the Southeast Florida Institute of Criminal Justice.

The Miami Police Department has made a number of changes in officer selection procedures since the Florida Advisory Committee began the study of the department in October 1974.

One of the most significant changes, mandated by the 1973 Cohen consent decree, turned over the design of the entrance examination, the grading, and ranking to an independent agency. This job fell to the Industrial Relations Center (IRC) of the University of Chicago which was charged to create an exam consisting of job-related questions and as free of cultural bias as possible. The results of the entrance exam given in April 1975 and January 1976 were discussed earlier in this chapter.

Although the city was required by the court to turn over only the entrance exam to an independent agency, it

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went a step further. The IRC was asked to review all requirements for selection of police officers and to validate procedures where possible, and to make recommendations about all selection procedures.

The IRC believes that the validation of these requirements will be the first undertaken in the country. Previously, an applicant could automatically be disqualified for failing one of the requirements.

In 1975 a personnel selection board, composed of three officers and a psychologist, was established. Candidates who fail any selection requirement are reviewed by the board and recommendations are forwarded to the police chief. The chief has the prerogative to retain the individual as an officer candidate.²⁸

The polygraph test includes questions about contact with marijuana, narcotics, homosexuality, and child molesting. Other questions (for a total of 14) probe whether answers to a "pretest polygraph questionnaire" were honest or not. The pretest questionnaire is lengthy. Categories of questions include financial background, physical fitness, work record, honesty, drinking habits, driving habits, arrest record, narcotics and dangerous drugs, gambling habits, homosexual activity, marital history, military record, neighbors, friends and associates, moral character, and loyalty to the United States.

There is no apparent link between some of the questions asked in the pretest questionnaire and the performance of police duties, e.g., "What are your marriage intentions (if single)? Has (sic) any of your friends and associates ever been involved in any criminal activity? Do you believe adulterous activities to be normal?"²⁹

Applicants who show a pattern of misconduct or deception are reviewed and may be retested. Such persons, according to department personnel, are not automatically disqualified.

The medical profile includes compiling a routine history; an electrocardiogram is given and x-rays of the back are taken. The Cohen decree required the police force to consult with the Dade County Medical Association to establish medical guidelines. The civil service board approved the guidelines in May 1975.³⁰ The involvement of

medical consultants outside of the police force was a first. Under this procedure the city physician is given more discretion in applying the guidelines.³¹

The physical agility and swimming tests have been criticized by both blacks and women. Ten different agility tests, ranging from scaling an 8-foot wall to pushups and the "deadman pull" (175-pound man pulled 50 feet in 20 seconds) are required. Some changes have been made in these tests. The 8-foot wall to be scaled has been reduced to 5 feet. The swimming tests require a 100-yard swim, water treading, diving, etc.

Blacks have been especially critical of the swimming tests; statistics show a greater proportion of blacks fail this test than do whites. Since the time of the Florida Advisory Committee open meeting several changes have been made in these requirements. A candidate who fails the swimming test is not disqualified. He or she is given lessons and may be retested within 6 weeks.

Supplementary to standard psychological and intelligence tests administered to the candidate, the Wechsler Adult Intelligence Test is given to identify psychopathic personality traits. IRC recommended this test only for research; results, however, are kept in the applicant's file. They are examined by the IRC staff in relation to the background check, performance at the police institute, and later job performance.³²

The background investigation states in detail what factors in a person's background would disqualify him or her: traffic record, criminal history, prior employment, and credit rating. The results of the investigation go into the applicant's file.

The oral review board process is designed to assess the variables of nonverbal and verbal communication, attitude, and motivation. The interview results supplement information from the application form and entrance requirements.

Five rotating teams conduct the interviews. The teams include three officers as voting members and a psychologist as a consultant. Minorities are included on the teams; there are no specific provisions to include women. The members undergo 2 days of training before they interview

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police candidates. Any team recommendation to eliminate a candidate is reviewed by the chief who makes the final decision.³³

Role of the Civil Service Board

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The civil service board plays an important role in the selection and promotion of city employees, including those on the police force. The board writes job descriptions, establishes the register of eligible employees, and, prior to Cohen, prepared and administered the exams.

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Three members of the five-person civil service board are appointed by the city commissioners; the other two are city employees elected by their colleagues. All five serve 2-year concurrent terms. Those serving in 1975 included four white men and one black man. Women have served on the board previously, but no one with a Latin background has served.

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The 1973 Cohen consent decree has limited the board's work in relation to the police department, i.e., the IRC now prepares, administers, and grades the entrance and promotion exams, and establishes a ranked list of candidates. The civil service board merely certifies the list. Although civil service rules state that the register may be current for 2 years, the 1973 Cohen consent decree limited it to 1 year. Under the current "highest-scored, first-promoted" procedure, the 1-year limit works to the disadvantage of minorities and women who seek promotions. As test results show, they have lower scores than white men. The year limit usually expires before mid- and low-passing scores are reached. However, the recruit register, at the current rate of hiring, is exhausted prior to the completion of the year limit.

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Although not specifically required by Cohen, a change in the policy of hiring and promoting the highest scoring persons first would assist the police department in reaching goals established by the Cohen consent decree for women and minorities.³⁴ The city, however, has not dealt with this critical issue; no change in policy has been made. Under the now set-aside U.S. v. Miami decree, specific provisions were established to effectively produce greater hiring and promotion of women and minorities.

Robert Paulk, executive secretary to the civil service board, told the Florida Advisory Committee that the city could not meet the goals of the Cohen consent decree within the established time limit, yet he believed that the board could not alter the practice of selecting from the top of the register.³⁵

John Lloyd, attorney for the city, clearly stated that the Cohen consent decree superseded civil service regulations, and that the latter would have to be altered, if necessary, to accomplish the mandates contained in the decree. (Transcript, vol. Ia, p. 68.)

City Manager Paul Andrews indicated that the city could pressure the board to make changes in its procedures when he stated that the board had been established by the city commission and therefore the commission could make changes in the civil service process.³⁶

An issue especially critical to the employment of Latins is Fla. Stat. Ann. §943.13, which requires police officers to be citizens.³⁷ In light of Miami's unique situation where Cuban refugees constitute a substantial portion of the population, this requirement is a hardship for Cubans and for the police who must serve and protect these people of another culture and language.

Cubans were encouraged and assisted by the U.S. Government to flee Cuba. Many refugees have waited or do wait for a change in the Cuban Government so that they might return. Their extended "temporary residence" in the United States has necessitated permanent jobs and often new careers. Despite these extenuating circumstances, careers as police officers have been closed to them.

Equal Employment Opportunity Program (EEOP)

The U.S. Department of Justice's Law Enforcement Assistance Administration (LEAA) requires each recipient of Federal grant money to prepare an "Equal Employment Opportunity Program" (EEOP).³⁸ LEAA regulations establish a standard by which an agency can determine if there is a "significant disparity" in the minority composition of its personnel: A significant disparity exists if the percentage of minority personnel is not at least 70 percent of the minority percentage in the population served.³⁹ However, under the 1973 Cohen consent decree, the city was required

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to employ minorities in the same ratios as found in the population.

The LEAA/EEOP regulations also require that a recipient of LEAA funds "formulate, implement and maintain" an EEOP relating to employment practices affecting women as well as minorities.⁴⁰ The regulations do not, however, set forth any minimum percentage from which to measure a "significant disparity" for employment of females as is done in the case of minorities. According to the commander of personnel and training, Captain James Reese, the current LEAA/EEOP for the Miami police department does not address "full equal employment for women." Captain Reese explained that, pending the final disposition of the U.S. v. Miami consent decree (which would require hiring and promotion of women in numbers proportional to their presence in the city's labor force), the EEOP will be revised in accordance with both the mandates of the LEAA regulations and the U.S. v. Miami consent decree.⁴¹

The Miami Police Department prepared an EEOP in April 1974 and updated it in May 1975. Many of the changes undertaken by the department in the selection process, i.e., redesigning and validating all entrance and promotion tests, and efforts to recruit and prepare minorities through the Tri-Cultural Program, have already been discussed.

The result of the police effort to employ more minorities and women is seen in sworn personnel statistics for April 1975 contrasted to May 1974 in exhibit I. By April 1975 the composition of 18.3 percent minority and 4.4 percent female had risen to 22.6 percent and 5.0 percent respectively. As the statistics show, the increase in minorities was adequate, while for women it was insignificant. City Manager Paul Andrews anticipated that the department would reach the goal for black officers (23 percent of the force) but would obtain only a 40 percent level for Latin officers (the goal is 52 percent) within the 5-year jurisdictional period of the Cohen consent decree. (Transcript, vol. IIb. pp. 118, 119.) Since April 1974, the department has produced monthly reports with a breakdown by race and sex for applicants, promotions, disciplinary actions, transfers, and terminations. By November 1975, a chart with the same information was being maintained daily.

Notes to Chapter III

1. Miami Herald, Oct. 14, 1975.
2. Kenneth Fox, acting chief of police, Miami Police Department, letter to Bobby Doctor, regional director, Southern Regional Office, U.S. Commission on Civil Rights, Aug. 24, 1976 (hereafter referred to as Fox Letter).
3. "Persons of Latin background have been members of [the] Department since time immemorial." Chief Garland Watkins, Miami Police Department, letter to Bobby Doctor, July 1976 (hereafter referred to as Watkins Letter no. 1.)
4. Cohen, supra note 2, chapter I.
5. Dade County Department of Community Analysis, Metropolitan Area of Dade County, 1975, Census Data Extract.
6. Major Eugene Gunn, commander of personnel and training section, Miami Police Department, interview in Miami, Fla., May 23, 1975.
7. Open meeting on police-community relations, held by the Florida Advisory Committee to the U.S. Commission on Civil Rights, Miami, Fla., June 20-21, 1976, transcript, vol. Ia, pp. 62-64. Volume and page numbers in parentheses in the body of the report will hereafter indicate references to the transcript of the Florida Advisory Committee open meeting.
8. U.S. v. Miami, supra note 3, chapter I.
9. Clark Merrill, grant manager, Office of Intergovernmental Affairs, City of Miami, telephone interview, Dec. 19, 1975.
10. U.S. v. Miami, §8 (appendix D).
11. "For further clarification, if no funds are received, the Police Department will provide a similar type program.

"There is no active recruiting going on at the present time. The Civil Service register has eighty candidates remaining who passed the written examination. This list does not expire until March, 1977, and could be extended beyond that time." Fox Letter, supra note 2, chapter III.

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12. Frank Weston, acting city attorney, City of Miami, telephone interview, June 29, 1976.

13. Cohen, §9 (appendix C).

14. U.S. v. Miami, §5 (appendix D).

15. The Bureau of the Census definition of "labor force" includes all civilian and Armed Forces personnel, employed or unemployed, 16 years of age or older, but does not include all persons under 16 years of age and all persons 16 or over who are not classified as members of the labor force, i.e., mainly students, housewives, retired workers, seasonal workers in an "off" season, inmates of institutions, disabled persons, and persons doing only incidental unpaid family work. U.S. Bureau of the Census, Census of Population: 1970 Detailed Characteristics, Final Report PC(1)-D 11 Florida, (App-15).

16. Cohen, §5 (appendix C).

17. Cohen, §2(c) (appendix C).

18. U.S. v. Miami, §6 et seq, (appendix D).

19. U.S. v. Miami, §5(b) (appendix D).

20. Ibid.

21. Chief Watkins, statement submitted at open meeting on police-community relations, Miami, Fla., June 19, 1975.

22. Miami Herald, Mar. 18, 1976, p. B-1.

23. Captain James Reese, commander of personnel and training section, Miami Police Department, telephone interview, Apr. 21, 1976.

24. "The entire police entrance examination test battery was developed by the University of Chicago Industrial Testing Agency. As an integral part of the concurrent validation study, the identical police entrance examination test battery was administered to 383 incumbent police officers in December, 1975." Fox Letter.

25. Robert L. Paulk, Jr., executive secretary, civil service board, City of Miami, telephone interview, May 19, 1976.

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26. Supra note 22, chapter III.

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27. Fla. Stat. Ann. §943.13.

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28. Captain Reese to Chief Watkins, May 22, 1975, "Preliminary Update of Police Department Affirmative Action Plan," sec. four.

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29. Ibid., sec. five.

30. Executive Secretary Paulk, letter to Courtney Siceloff, equal opportunity specialist, U.S. Commission on Civil Rights, Southern Regional Office, May 19, 1975.

31. "Preliminary Update of Police Department Affirmative Action Plan," secs. four and seven.

32. Captain Reese, telephone interview, Apr. 21, 1976.

33. "Preliminary Update of Police Department Affirmative Action Plan," sec. eight.

34. The Cohen decree does not establish a definite time limit other than the 5-year period when the court has jurisdiction: "...representation is expected to be attained within the five year court jurisdiction of this order, assuming this will not require the City to lower its standards for the recruitment of police officers." See appendix C for full text of Cohen.

35. Executive Secretary Paulk, interview in Miami, Fla., Apr. 2, 1975.

36. Paul Andrews, city manager, City of Miami, interview in Miami, Fla., Apr. 2, 1975.

37. According to the 1970 U.S. Census, 75.2 percent of the Latin population of Miami are not U.S. citizens.

38. 28 C.F.R.: §42.301 et seq.; also the recipient of any Federal funds must be an equal opportunity employer (Title VI of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000d et seq.). Therefore the police department, via the

city of Miami, must also satisfy the equal opportunity requirements of the Office of Revenue Sharing. Only the requirements of LEAA will be dealt with in this report.

39. 28 C.F.R. §42.306 (c) .

40. 28 C.F.R. §42.302 (d) .

41. Captain Reese, telephone interview, June 30, 1976.

IV. THE DADE COUNTY DEPARTMENT OF PUBLIC SAFETY

Dade County has a nine-member county commission and a county manager as the chief executive. The county is among the largest in the United States, covering 2,054 square miles. The charter is permissive, allowing incorporated areas to turn over certain services to the county. Tax assessment and collection, traffic engineering, and the judicial system are under the jurisdiction of the county government. A referendum to place all fire and police departments under the county administration was defeated. In this strong-executive form of government, the commissioners must deal with the county manager instead of directly with department heads. The department of public safety furnishes police protection to 26 incorporated areas within the county.

Entry of Minorities to the Force

The first blacks joined the force in 1953. They had no restrictions on arrest powers and were admitted to the police institute for training. For Latins, who joined the department in 1960, there were no apparent barriers. When women first joined the force is not known. There were separate entrance requirements, exams, ranks, and assignments for women officers until 1972, when the department abolished distinctions in requirements and established a standard job description for police officers.

Sworn Force

From the statistics furnished by Dade County, it would appear that the Dade County Department of Public Safety has substantially increased the number of minorities and females in the sworn force in the last 2 years, but few in those categories have achieved supervisory positions.

Exhibit II gives a comparison of the personnel between June 1973 and June 1975. A special sworn officer category, police service officers, was added to handle security at Miami International Airport and Jackson Memorial Hospital. Although they are sworn deputies, their duties are limited to the two facilities. (Transcript, vol. Ib, p. 102.) Of 134 police service officers in 1975, 57 were members of minorities or women, a far greater percentage than found on the force elsewhere. These figures inflate the percentages of women and minorities on the sworn force. Therefore, in

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EXHIBIT II
DADE COUNTY DEPARTMENT OF PUBLIC SAFETY SWORN PERSONNEL
June 1973 and June 1975

June 1973

POSITION	Total	WM	WF	BM	BF	LM	LF	OM*	IM**
Director	1	1							
Chiefs	5	5							
Majors	2	2							
Captains	21	21							
Lieutenants	59	57		1		1			
Sergeants	223	209	5	6		3			
Police Officer	810	722	20	35	5	27		1	
TOTAL	1121	1017	25	42	5	31		1	
PERCENT		90.72	2.2	3.8	.4	2.8		.08	
** Police Service Off.	105	74	12	7	1	11			

June 1975

POSITION	Total	WM	WF	BM	BF	LM	LF	OM*	IM**
Director	1	1							
Chiefs	5	5							
Majors	2	2							
Captains	23	23							
Lieutenants	72	70		1		1			
Sergeants	244	225	8	8		3			
Police Officer	1030	768	84	78	11	87	1	1	
TOTAL	1377	1024	92	87	11	91	1	1	
PERCENT		74.5	6.7	6.3	.8	6.6	.07	.07	
** Police Service Off.	134	77	8	17		10	6		

Source: Department of Public Safety
Dade County

* Oriental Male

** American Indian Male

*** Personnel assigned only to airport and hospital who are not eligible for other assignments

tabulating minorities and women on the force who are eligible for all types of jobs, police service officers are listed separately from the rest of the force. As can be noted in exhibit II, among 1,377¹ sworn officers in 1975, 6.3 percent (87) were black men, 0.8 percent (11) black women, 6.6 percent (91) Latin men, 0.07 percent (1) Latin women, 0.07 percent (1) Oriental men, and 6.7 percent (92) white women. There are more white women than any other minority category; 86 percent of the sworn force is white.

A comparison with 1973 shows that there was an increase in the numbers and percentages of minorities and females. In 1973 the sworn force had only 3.8 percent black males, 0.4 percent black females, 2.8 percent Latin males, 0.00 percent Oriental males, no Latin females, and 2.2 percent white females.

In supervisory positions on the sworn force, one black male lieutenant and one Latin male lieutenant remain the highest ranking minority officers. There are no female lieutenants. Two additional black males and three additional white females became sergeants between 1973 and 1975.

After the June 1975 Florida Advisory Committee open meeting, two minority persons were moved to supervisory positions in the department. A black sergeant became head of the community service section, one of four sections which reports directly to the director of the department; while remaining a sergeant, he received a pay increase in this exempt position. A Latin male, while continuing to hold the rank of police officer, was made an administrative officer in the human resources office of the administrative division, 1 of 16 divisions and bureaus in the department.

Promotion within the Dade Department of Public Safety is based on a written test score, seniority points, and satisfactory performance record based on past interviews, evaluations, and personnel records. A promotion interview panel makes recommendations to the director who selects the officer from among the top four competitors for the position. The tests require verbal and written academic skills.²

As shown in exhibit III, a total of 42 promotions were made during fiscal year 1975. Only two were minority men; none were women. Twenty-two minorities and women were

EXHIBIT III
 PROMOTIONS, DADE COUNTY DEPARTMENT OF PUBLIC SAFETY
 FISCAL YEAR 1975

CAPTAIN EXAM

	Total	WM	WF	BM	BF	LM	LF	OM
Applied	43	41		1		1		
Passed	11	10		1				
Promoted	3	3						

LIEUTENANT EXAM

	Total	WM	WF	BM	BF	LM	LF	OM
Applied	136	129	4	2		1		
Passed	44	41	2			1		
Promoted	11	11						

SERGEANT EXAM

	Total	WM	WF	BM	BF	LM	LF	OM
Applied	374	325	6	21	3	18		1
Passed	113	95	3	4		10		1
Promoted	28	26				1		1

Source: Department of Public Safety, Dade County

eligible. Of the 103 officers above the rank of sergeant only 2 are minorities---1 black and 1 Latin; both are men. Of 245 sergeants on the force only 8 are black men; 3 are Latin men; 8 are white women. No Latin or black women hold that rank.

In October 1975, according to Dade officials, some changes were made to better prepare officers for the promotion tests. The recommended reading list was revised and officers were told how much emphasis is placed on a given reading in a given test. In addition, off-duty training sessions are and have been available to officers who wish to prepare for a promotion exam.

A chart of job assignments, showing race and sex, is found in appendix B. (These personnel figures, available only for 1973, differ from those in Exhibit II: Dade County Sworn Force, June 1973 and 1975, although all came from the department of public safety affirmative action plan, June 30, 1974.) Approximately half of the total force (1,107) is listed simply as "uniform patrol officers." The limited use of minorities and women for certain assignments is glaring: no blacks, Latins, or women are in the motorcycle patrol; no blacks or women in traffic investigation, marine patrol, or the aviation unit; no Latins or women in internal review; no blacks and only 3 Latins in the administrative and central services divisions; 2 blacks among 76 officers assigned to organized crime; 2 blacks and 2 Latins among 81 officers in the detective bureau.

Recruitment

There are and have been some efforts to recruit minorities and females, but apparently not on the scale that would substantially alter the present composition of the force.

Recruiting visits were made in May 1973 to three Florida colleges: Bethune-Cookman, Florida A & M (both predominately black), and Florida State. The equal employment opportunity program prepared in June 1974 indicated that other such trips would be scheduled. One trip was made in the spring of 1974. No others have been made since. Coincidental with the open meeting was a 2-week recruitment drive in the Latin community of Dade County. In August 1974 the department requested a grant of \$325,000 from the LEAA to conduct a minority recruiting drive; funds

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were not granted. Ashton Tyler, personnel officer for Dade County, indicated to the Advisory Committee that the department has had more difficulty recruiting blacks for police officers than whites. (Transcript, vol. Ib, p. 109.) Recruitment and hiring have been hindered by a freeze on county hiring enacted September 12, 1975.³ Ongoing recruitment efforts include appearances at local schools and colleges by a part-time recruitment team and advertisements, especially in media directed toward minorities. A day off is granted as a reward to an officer who recruits a person eventually hired.

Requirements for Entrance

Requirements for becoming a police officer in Dade County are numerous and complex. Despite changes in some requirements and lofty statements from officials about their desire to employ women and minorities, the results are not good.

The Dade County Department of Public Safety has 10 procedures which a person must pass to be hired as a police officer: preliminary check of qualifications, written application, employment test, panel interview, physical exam, background verification, preliminary selection by the personnel officer, final selection by line authority (director or chief), the police institute, and probationary placement in the police force. The candidate may be rejected at any point in this process. Those rejected are not told that they may have conferences to discuss their rejections. If they ask about their rejections, they are told to make an appointment with the personnel office.

A point system is used for the panel interview (via administrative review), background check, education, and work experience. Out of a maximum of 42 points as many as 20 may be scored for the panel interview. Points for the background check range from 1 to 10 for credit rating, traffic record, rating by previous employers, neighbors, friends and family, etc. For a bachelor's degree the candidate may receive a maximum of 5 points; 6 for a graduate degree. Previous employment experience counts for a maximum of 6 points.

Statistics show that few persons who apply are hired. The prescreening process (preliminary qualifications and

written application) eliminated about 50 percent of the 1,469 applicants between March and November of 1975:

Accepted												
WM	%	WF	%	BM	%	BF	%	LM	%	LF	%	TOTAL
472	62	81	11	40	5	17	2	137	18	16	2	763

The employment test consists of 100 multiple choice questions which are designed to evaluate the applicant's ability to successfully complete the police institute curriculum. The test is given frequently. Applicants are not ranked according to their scores. "We do not go by a roster," said Leslie J. Real, senior administrative officer in the public safety department's personnel office. "When an individual passes the civil service test, we consider them qualified. We don't care what their score was or is." (Transcript, vol. Ib, p. 95.) The department of public safety says that the test is not designed as a barrier to minorities or any other applicants:

To eliminate obvious artificial barriers to the employment of minority group applicants, the examination is administered without a time limit and unlimited test retakes are permitted. Based upon the recommendation by the Public Safety Department, the passing point on the test has been set at the 30 percentile which grants further employment consideration to 7 out of 10 applicants participating in the police officer examination.*

Most of the 7 out of 10, however, are white men, as sample statistics from the Dade department show.

During fiscal year 1975, out of 1,348 white males who took the written exam, 1,085 passed (80.5 percent). Of 351 black males, 62 (17.7 percent) passed. Results for all groups are shown below (percentages shown in parentheses are based on the total tested in each sex and race category).⁵

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	WM	WF	BM	BF	LM	LF
Tested	1,348	272	351	73	335	34
passed (Percent)	1,058 (80.5)	195 (71.2)	62 (17.7)	38 (52.2)	141 (42.1)	24 (70.5)
Failed	263	77	289	35	194	10
Hired (Percent)	176 (13.1)	23 (8.5)	18 (5.1)	10 (13.8)	32 (9.6)	8 (23.5)

As stated previously, the exam is designed to evaluate the applicant's ability to successfully complete the curriculum provided in the police institute. This rationale might explain the high rate of failure among minorities, especially black males. Success rates at the institute are high for all men and women. The exam, then, fulfills its purpose of assuring academic capability. The merits of this purpose are questionable, however, since neither the required courses nor the exams have been validated in relation to a police officer's on-the-job skills.

In view of the fact that one-half the applicants are eliminated prior to taking the employment test, and that in the case of black males only 5 percent of those tested are hired, it appears that only 2 to 3 percent of black males who apply for the position of police officer attain that position. The succeeding tables indicate the success rates for applicants in the other processes in the selection procedure.

The panel interview is a key part of the selection process. Minorities are scheduled ahead of others for this interview. This courtesy serves only to reduce their waiting time for the interview. The panel consists of a psychologist, a planning and research officer, and a police officer who is trained for this responsibility. The department is concerned that this interview be deemed suitable for officer selection, as evidenced by a memo from the administrative officer dated December 23, 1974:

...although no challenge to date has been filed, recent action in this geographical area indicates that the department is a logical target. Every

effort is being made to present the most comprehensive defense of the present selection process.⁶

The figures below show the numbers of persons who passed the panel interview from June through November of 1975:

	WM	WF	BM	BF	LM	LF	TOTAL
Inter-viewed	276	76	24	6	77	10	469
Passed	115	23	12	4	28	6	188
Passed (%)	61	12	6	2	15	4	100

From one perspective, this chart illustrates that on the basis of the number of minorities and females interviewed, the combined percentage of those minorities and females who passed the interview was close to that of the white males who passed the interview, i.e., roughly 40 percent of the combined totals of minorities and women interviewed passed the test. From another perspective, however, this chart also illustrates the glaring fact that the number of minority members and females interviewed is far below the proportional representation of minorities and females in the population, e.g., 6 black females out of a total of 469 persons interviewed. Thus, in terms of proportional representation of minorities and females in the department, this chart discloses that, considering the make-up of the service population, too few minorities and women are eligible for this necessary step to becoming a police officer.

At the police institute candidates must maintain an average grade of 70. Enrollment figures from the public safety department from July 1973 through August 1975 are shown below:

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	WM	WF	BM	BF	LM	LF	TOTAL
passed	328	37	46	13	67	3	494
passed (%)	66.0	7.4	9.3	2.6	13.5	0.6	99.4
Dropped	25	3	6	2	4	0	40

In October 1975, the Dade County Department of Public Safety outlined some revisions in its selection procedures which would take effect when the hiring freeze is lifted. More police supervisors and administrators will be involved in the process than previously. Two areas in which changes are proposed should be noted: the composition of the panel interview board, and the appeal procedures.

The interview board will include an individual with "credentials in psychology," a sergeant assigned for 3 months, and another police officer who will rotate monthly. The sergeant or the police officer must be either a minority person or a woman. There were no changes made in the employment test which eliminated 82 percent of the black candidates in 1975 (289 of 351 tested).

When a candidate is rejected at any level of the revised selection procedures he or she will be able to appeal to the police selection section within the department. If the rejection is sustained, the candidate may then appeal to one of the human resources coordinators, both of whom are minority persons. The coordinator, however, has no power to reinstate the candidate. He or she submits a statement of findings to the administrative division chief.

Equal Employment Opportunity Program

As mentioned in regard to Miami police in chapter III, a major impetus to affirmative action in hiring and promoting minorities and women is the requirement established by the Law Enforcement Assistance Administration (LEAA) of the Department of Justice. To qualify for LEAA funding, an agency must develop an Equal Employment Opportunity Program (EEO).⁷ LEAA requires, among other things, that statistics be kept by race and sex on applicants, persons hired, promotions, transfers, and disciplinary actions.⁸

LEAA regulations establish a standard by which an agency can determine if there is a "significant disparity" in the composition of its personnel: A significant disparity exists if the percentage of a minority group employed is not at least 70 percent of that minority's percentage of the population served. Should this disparity exist, the agency must outline actions to reverse it. LEAA does not require a specific timetable for correction of the disparity.

County police agencies are directed by LEAA guidelines to use county population figures as their service populations. Dade County, according to Dade County Department of Community Analysis 1974 figures, had a population that was 33 percent Latin and 15 percent black. The goal for hiring black officers was set at 10.5 percent (70 percent of 15 percent).

In computing the goal for hiring Latins, the department used a figure of 25.8 percent Latin population (based on data for the Latin work force from the Florida department of labor). In addition, it estimated that approximately 50 percent of the Latin population was alien and therefore not eligible for employment, and so reduced the figure of 25.8 percent to 12 percent. Taking 70 percent of the reduced Latin population estimate, the department set a goal of 8.4 percent for hiring Latins.

Although the LEAA guidelines do require equal employment provisions for women in the EEOP, they do not, however, set forth any minimum percentages from which to measure a "significant disparity" for employment of females as is done in the case of minorities. The public safety department did establish goals for hiring white and minority women as sworn officers. The department computed the ratio of female to male applicants in a 2-year period, added the number of women registered in local college criminal justice programs, and then took 70 percent of that figure. The established goal was to employ women as 10.5 percent of the sworn officers force.

The department designated 7 years, 1974--1981, to achieve the goals that would give the force a minimal balance in composition. That is, it established a timetable to achieve, by 1981, goals which should have been achieved in 1974. The 1981 goals were established on the premise of

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a 5 percent annual turnover rate plus an annual increase of 100 positions.

Although a hiring freeze was instituted by the county in September 1975, just prior to the freeze the department increased its total personnel by 290 persons. This brought the total sworn force to 1,570. The projected size of the sworn force stated in the EEOP for June 1975 was 1,380; the projected size for June 1977 was 1,580. As the following chart reveals, the department lags far behind in meeting its own goals for blacks, Latins, and women despite the large increase in personnel prior to the hiring freeze.¹⁰

	<u>Blacks</u>	<u>Latins</u>	<u>Women*</u>	<u>Total</u>
Projected hiring goals June 1977 (force of 1,580)	78	156	84	
Actually hired, June 1975	28	40	41	
Projected total force, June 1977	133	200	123	1,580
Actual total force, June 1975	119	108	113	1,570 ¹¹

*Women are also counted in minority columns when applicable.

A statement of philosophy included in the EEOP, June 1974, read: "The Program will reflect a good faith effort towards equal opportunity employment in order to reach optimum efficiency service levels of the Public Safety Department."¹² In the same document, Wilson E. Purdy, director, Dade County Department of Public Safety, more explicitly stated his dedication to the goal:

A total resource commitment to this goal must be made. To achieve ultimate effectiveness in this matter, our efforts toward equal employment for all people in our employment must extend above and beyond the letter of the law---this is, total commitment to this goal on the part of every employee.¹³

Regardless of such statements, the record of minority and female hiring in the department is contradictory. The goals for hiring women and minorities simply are not being met. The hiring of 290 persons prior to the personnel freeze resulted in pushing the department almost over its total personnel projection for 1977, yet the department still remained behind in numbers of blacks, Latins, and women to be hired commensurate with the actual size of the force. Such action certainly contradicts Director Purdy's statement.

In another document the department said

...it is obvious that the Department does not adequately reflect the ethnic distribution of its service population. Since the aggregate of all minorities employed is so very small...minority representation is not highly visible to the service population, leading to their feelings of alienation from the criminal justice process.¹⁴

In spite of the shortfall in minority hiring, Leslie Real, senior administrative officer for the department, told the Advisory Committee, "As supervisor of the personnel bureau, it's my job to see that our selection process is such that it complies with those goals that we have set for ourselves. And we are on target right now; in fact, in some areas we're a little ahead of schedule." (Transcript, vol. Ib, p. 80.)¹⁵ James Bryant, human resources coordinator responsible for monitoring the minority representation on the force, said that he was reluctant to become a "head counter" and that he preferred to represent the entire force.¹⁶

The revised Equal Employment Opportunity Plan of the department, submitted since the Advisory Committee open meeting, sets new goals for hiring Latins. The department no longer reduces the percentage of Latin population due to aliens. It set a hiring goal of 18.2 percent (70 percent of 25.8), to be reached by 1981. Hiring goals for blacks and women remain the same; no goals or timetables were established for the promotion of all minorities and women.

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Notes to Chapter IV

1. The total of 1,511 (1,377 plus 134 police service officers) for sworn personnel as of June 1975 conflicts with other data provided by the Dade County Department of Public Safety. Prior to the Florida Advisory Committee open meeting, the department reported a sworn force of 1,491. The department's Equal Employment Opportunity Program reported a sworn force of 1,570 as of June 30, 1975. Other statistics furnished by the department have been equally contradictory.

Director Purdy states: "While these statistics appear contradictory, they are correct. New hires plus terminations would account for this degree of fluctuation within the sworn ranks."

Wilson E. Purdy, director, Dade County Department of Public Safety, letter to Bobby Doctor, director, Southern Regional Office, U.S. Commission on Civil Rights, July 7, 1976 (hereafter referred to as Purdy Letter no. 1).

2. James Bryant, human resources coordinator, Dade County Department of Public Safety, interview, Apr. 29, 1975.

3. "The statement 'Recruitment and hiring has been hindered by a freeze on county hiring enacted September 12, 1975' needs clarification.

"The County government at no time placed any freeze on the hiring of Police Officers or Police Service Officers. However, at the final budget hearing and subsequent approval of the 76-77 budget by the County Commission, the County Manager was directed by the Commission to create a contingency fund from the proposed budget which amounted to 6 millions of dollars. This amount was pro-rated to the various departments. The Public Safety's pro-rated cut amounted to \$1,113,500. Since 85% of the Public Safety Department's budget is expended by personnel services (salaries) there was no other alternative than to make up this amount primarily by cutting back and slowing the hiring process as well as to permit normal attrition to take its course. Consequently an informal agreement with County budget officers was entered into where by (sic) as few officers would be hired without endangering the public

safety of the County. Ten police officers were hired in January, 1975 and an additional 30 were hired in May, 1976. The economic situation has been such that at the present time vacancies are at a minimum; as contrasted with past years when 100 vacancies was (sic) not at all abnormal which permitted open continuous examination and hiring of police personnel."

William F. Hampton, special assistant to the Dade County manager, letter to Ted Nichols, Florida State Advisory Committee chairperson, Aug. 17, 1976 (hereafter referred to as Hampton Letter.)

4. Dade County Department of Public Safety, Affirmative Action Plan, June 30, 1974, p. 15. (Note that "affirmative action plan" is the term the department uses for what LEAA calls the "equal employment opportunity program.")

5. Dade County Department of Public Safety, Statistical Survey FY 75.

6. Leslie J. Real, senior administrative officer, Dade County Department of Public Safety, memo to Paul H. Bonhardt, chief, administrative division, Dec. 23, 1974.

7. In fiscal year 1975 the department of public safety received over \$2,225,000 from LEAA. Bill Talbert, administrative assistant, office of Dade County manager, telephone interview, Dec. 10, 1975.

8. Supra note 38, chapter III.

9. 28 C.F.R. §42.306(c).

10. The reader will note the discrepancies in the data (e.g., the department is behind in hiring 50 black men, but shows itself only 24 behind on the total force). No explanation could be made for this. See Purdy Letter no. 1, supra note 1, chapter IV, for the department's comments regarding its statistics. Additionally, Director Purdy stated "...it depends upon how one chooses to interpret the statistics."

11. Dade County Department of Public Safety, Affirmative Action Plan, 1975 update.

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12. Dade County Department of Public Safety, Affirmative Action Plan, June 30, 1974.

13. Ibid.

14. Dade County Department of Public Safety, Application for LEAA Funds, Aug. 30, 1974.

15. In the Purdy Letter no. 1, supra note 1, chapter IV, Director Purdy stated that: "...Mr. Real states that what he was referring to was the fact that at the time of the hearings, this department was in fact, ahead of its affirmative action goals." As illustrated by the preceding chart and discussion in this chapter, the department, as of June 1975, was far behind its minority and female hiring goals when measured against the actual size of the sworn force. Perhaps Mr. Real was speaking in terms of the projections under the department's EEOP which, because of the actual rate of hiring far in excess of the projections in the EEOP, is not an accurate means to measure actual progress in terms of meaningful minority and female hiring goals.

16. James Bryant, human resources coordinator, Dade County Department of Public Safety, interview in Miami, Florida, Nov. 12, 1975. In the Purdy Letter no. 1, supra note 1, chapter IV, Director Purdy claimed that James Bryant was quoted out of context: "Mr. Bryant states that 'he did not perceive himself as a head counter, but rather, a change agent that represented the entire force.'" No such quote or reference to "change agent" was recalled by the interviewer or substantiated by the notes of the interview and, therefore, the statement remains as written.

V. TRAINING PROGRAMS

Southeast Florida Institute of Criminal Justice

The Southeast Florida Institute of Criminal Justice was established in 1972 to provide training for 26 police departments in incorporated areas in the county as well as Dade County and the city of Miami. The police institute is part of the Miami-Dade Community College. Previously, the Dade County Department of Public Safety, the Miami Police Department and the community college each operated training facilities. The police institute plays a key role in the hiring process, since a candidate must graduate to become a member of a sworn force.

The police institute has a core staff of three persons. Police departments from city and county assign full-time staff persons for administrative duties and some teaching. Most of the instructors are officers who teach part time. Each basic law enforcement class meets for 17 weeks, 2 of which consist of "riding the beat" with officers from the candidate's respective police department. The State requires a minimum of 320 hours for police; the institute's program was 1,000 hours but was, by agreement of the law enforcement agencies and institute staff, cut to 680 in April 1975. The curriculum is designed by a five-person committee which includes the director of the institute, and representatives of the department of public safety, the Miami Police Department and selected police forces within Dade County. Despite the vast differences in the racial and ethnic makeups of the jurisdictions served, the curriculum for all police officer candidates is the same.

The State-required 320 hours of police training must include 10 hours in administration, 11 hours in introductory criminal justice courses, 51 hours of law and legal procedures, 79 hours of crime investigation, 22 hours in patrol procedures (civil and domestic confrontations, prowler calls, etc.), 34 hours in traffic control, 30 hours in human skills, and 83 hours in proficiency skills (defensive tactics, civil disorders, firearms training, and first aid).

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Police candidates at the institute were receiving 101 hours of "human skills" training in the 1,000 hour program. However, when the training time was cut to 680 hours, the "human skills" training was reduced to 48 hours. In the Dade County Department of Public Safety publication "Police/Community Relations Training, A Program of Progress" the disproportionate reduction of hours in this field was protested.

Candidates have six major exams during their training and each must be passed with at least 75 percent accuracy. Those who fail can enter the next session if their department chooses to enroll them again. The acting director, Allen Shoaff, told the Advisory Committee that some students had difficulty with the course; due to their lack of proficiency in English. They are referred to the learning center at the college for assistance. (Transcript, vol. Ib, p. 174.)

Instructors in the police institute are predominantly white males. Of the 64 instructors who taught classes that ended in June 1975, 53 were white males, 3 were black males, 2 were Latin males, 5 were white females and 1 was a black female. The minority and female instructors taught a total of 20 of the 680 hours required.¹

Jack Tuckfield, chairman of the criminal justice department of the south campus of Miami-Dade Community College, expressed concern over the use of numerous part-time instructors. When he had been associated with the institute, some of the part-time instructors did not appear for their classes. Some courses, he said, were taught by several different persons, and therefore lacked continuity. (Transcript, vol. Ib, p. 182.)²

When asked about the racial distribution of students at the police institute, Mr. Shoaff told the Advisory Committee that records were not kept by race and that he did not plan to begin doing so unless it was required.³ (Transcript, vol. Ib, p. 175.) The institute did, however, have records by sex and also identified Latins by surnames. In the period from March 1974 through June 1975, a total of 501 students had been enrolled; 59 were terminated (11.8 percent) and 6 were recycled to another training session. The 77 females had the same percentage of termination as the males. Of the 72 Latins enrolled for the period, 10 (13.9 percent) were terminated.

Miami and Dade County did have records by race of candidates they sent to the institute. In the period from January 1974 through April 1975, Miami sent 99 students to the institute; 73 percent were graduated. Of the 51 whites, 9 (18 percent) were terminated; of 28 Latins, 8 (28 percent) were terminated; and of 19 blacks, 10 (53 percent) were terminated. Miami's city manager, Paul Andrews, stated that a number of those who failed academically were persons who had been randomly selected from the entrance exam ranking list as opposed to those with the top scores.

Of Dade County's 534 candidates enrolled from April 1973 to June 1975, 92 percent graduated. Of the 393 whites enrolled, 28 (7.1 percent) were terminated; of 74 Latins, 4 (5.4 percent) were terminated; and of 67 blacks 8 (11.9 percent) were terminated. It was noted in chapter IV that Dade County's selection procedures focused on selecting candidates who would be successful at the institute, with the result that a vast majority of the applicants "wash out" prior to entrance into the institute.

Inservice Training

Throughout the career of a police officer both Miami and Dade County afford opportunities for training. In Dade County every officer is required to attend an 8-hour training session each month. From July 1973 to June 1975, there were 12 different sessions involving as many as 1,000 officers. In addition, 54 officers received training outside the department and the state. There were ten special training sessions which included study of the Spanish language and the safe street units.*

Officers are encouraged to acquire college education by a county policy of refunding the tuition cost of college courses relevant to police work, including language courses.

The Miami Police Department offers an 8-hour inservice training course every 2 months. Attendance is mandatory for sworn officers and certain civilian staff; other personnel may attend if they wish. The courses cover a variety of subjects: how to deal with alcoholics, tort training, transactional analysis, defensive driving, and briefings on new laws.

The Miami Police Department also has sent officers and civilian staff to workshops provided by outside sources. In

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1975 six officers attended an out-of-state workshop on selection interviewing techniques and then participated in department training provided for all members of the oral review board. In November 1975, three employees began a 4-hour weekly, 14-week workshop on affirmative action plans. Also in 1975, all civilian supervisors, as well as those ranked sergeant and above in the sworn force, took an 8-hour equal employment course.

Bilingualism

The Florida Advisory Committee was especially interested in learning how the two police departments communicated with their Spanish-speaking residents. Though no reliable statistics were available on the number of people who speak Spanish as their primary language, there was evidence to show that language is often a significant problem for police and residents.

The usefulness of Spanish-language training for officers was dramatically illustrated during the course of the Miami City Commission hearing on the police department on November 27, 1974. Mayor Maurice Ferre dialed the police complaint desk and said in Spanish, "Emergencia, Emergencia." The police reply was "Speak in English."⁵ Several persons, including Sergeant Dan Bailey of the Miami Police Department and Javier Bray, chairman of the Spanish American League Against Discrimination, spoke forcefully about the need for officers to know Spanish. Bray was explicit about the need for multilingual police: "I say that bilingualism must be a requirement of all candidates...." "I think it would behoove other personnel to learn other ethnic groups...there's a dialogue spoken in the black community that...the white policeman wouldn't even understand," said Bailey. (Transcript, vol. IIB, pp. 65 and 69.) Chief Watkins of Miami told the Committee that in 1973, a 40-hour Spanish course was offered to his officers on a voluntary basis. Ninety-three enrolled in the course and 48 completed it. A similar course was offered in 1974 with 133 enrolling and 63 completing. In 1975 it became mandatory for all 709 sworn personnel and 10 civilian personnel who had contact with Latins to take an 8-hour course in Spanish in order to be able to communicate with Spanish-speaking persons. (Transcript, vol. IIB, p. 115.)

Director Purdy indicated that members of the department of public safety would have tuition fees refunded if they

took a college course in Spanish but that the department itself offered no such training.⁶ However, he pointed out that "the county itself runs Spanish language courses which a great number of members of the PSD (Public Safety Department) have taken and passed."⁷

The Southeast Florida Institute of Criminal Justice does not include Spanish in its recruit curriculum.

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Notes to Chapter V

1. Allen R. Shoaff, acting director, Southeast Florida Institute of Criminal Justice, letter to Courtney Siceloff, equal opportunity specialist, Southern Regional Office, U.S. Commission on Civil Rights, July 14, 1975.
 2. "Mr. Tuckfield's comments and concerns have been, for some time prior to his appearance before the Commission, noted by all the major law enforcement agencies represented at the Institute. The fact is...the law enforcement agencies desire this type of structure (part-time instructors) and have since this testimony almost totally eliminated the specific problem."
- Allen R. Shoaff, in his capacity as chairperson of law enforcement training at the Southeast Florida Institute of Criminal Justice, letter to Bobby Doctor, director, Southern Regional Office, U.S. Commission on Civil Rights, July 6, 1976 (hereafter referred to as Shoaff letter).
3. Mr. Shoaff stated that "This information is now being mentioned [kept] for every Basic Law Enforcement Class," Shoaff Letter, supra note 2, chapter V.
 4. Dade County Department of Public Safety, "Police/Community Relations Training, A Program of Progress," 1975.
 5. Miami Herald, Nov. 28, 1974.
 6. "In conversations with Officer Randy Egues, Public Information Office, and the personal knowledge of this writer, it is estimated that there are approximately 60 non-Latin employees who are proficient enough in the Spanish language to be considered bi-lingual." Hampton Letter, supra note 3, chapter IV.
 7. Purdy Letter no. 1, supra note 1, chapter IV. According to information supplied by William F. Hampton, special assistant to the county manager, 21 members of the department (including 4 members not on its sworn force) have enrolled in a total of 25 courses and 13 of those courses have been completed. Hampton Letter, supra note 3, chapter IV.

VI. INTERNAL INVESTIGATIONS

The resolution of complaints lodged against police and the discipline the police administer to themselves are considered by the Florida Advisory Committee to be vital links in good police-community relations. Both Miami and Dade County maintain internal investigation units within the police departments. It is their responsibility to handle complaints from citizens of mistreatment by officers and inquiries from officials of agencies who suspect illegal activity on the part of police officers. The investigation units have two purposes: to protect the public from misuse of police power, and to protect police officers from unwarranted accusations.

An accused officer has the benefit of a built-in series of appeal procedures, as well as the 1974 Florida Police Officers' Bill of Rights.¹ There is no appeal for a complainant; private litigation is the only recourse.

Miami Internal Investigations

Allegations of police misconduct are processed by the internal security unit; its personnel report directly to the chief of police. These complaints are taken by telephone, in writing, or in a personal interview. The head of Miami's internal security unit decides if the complaint is a minor one and, if so, refers it through the chain of command to the supervisor of the officer in question. A complaint deemed serious is assigned to an investigator in the unit who prepares a written summary at the end of the investigation. The summary is reviewed by the commander of the unit, the chief of one section in the force, and the police chief.

Disciplinary action recommended at this initial step of investigation can be appealed to a five-member departmental disciplinary review board. Two members are chosen by the police chief; the accused officer may pick two officers from a list of six offered him or her and may choose the fifth member from one of the police unions. The board makes a decision whether the officer is innocent or guilty and, if the latter, recommends discipline. The chief then reviews the decision and can sustain or alter the penalty. The accused may appeal the chief's decision to the civil service board, where the city attorney represents the complainant

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and the police department against the accused officer. This hearing is open to the public; the other review and appeal sessions are open only to the officer accused and his counsel. The civil service board can make its own decision regarding guilt or innocence, as well as disciplinary action. Finally, that decision can be appealed to the city manager.

The Miami internal security unit sustains less than one-tenth of the complaints lodged against officers. For calendar year 1975, out of 453 complaints lodged, only 40 were sustained, half of which resulted in reprimands with no loss of time or pay (see Exhibit IV: Yearly Report of Miami Internal Security Unit--1975).

In 30 complaints alleging excessive physical force, 2 were sustained. The records of complaints against an officer---even if not sustained---are kept indefinitely. (Transcript, vol. IIa, p. 159.)

At the Miami city commissioners' hearing on November 6, 1974, Phillip W. Knight, attorney for the city's insurance company, indicated that civil action claims against city police personnel had risen approximately 25 percent within the last 2 years (1973-74). The annual insurance premium had to be increased from \$60,000 to \$150,000 in 1974. Mr. Knight stated that the investigation reports of the internal security unit were inadequate. In the majority of cases which came to the insurance company he said there were no files whatsoever.² He rated the performance of the unit at 20 out of a possible 100. He was not critical of individual personnel, but did recommend that the internal security unit have at least four times more staff, both clerical and sworn. There has not been such an increase. In May 1974, there were nine sworn personnel and two stenographers; in October 1975 there were nine sworn personnel and three stenographers.³

Dade County Internal Investigations

Within the Dade County Department of Public Safety the internal review section is responsible for investigating alleged police misconduct. Complaints can be submitted by letter, telephone, or in person. Anonymous complaints are accepted.

EXHIBIT IV
YEARLY REPORT OF MIAMI INTERNAL SECURITY UNIT-- 1975

Complaints by Allegation & Disposition

	Reported	Sustained
Excessive Physical Force	30	2
Abusive Treatment	63	2
Misconduct	81	13
False Arrest	35	6
Harassment	51	1
Negligence of Duty	22	1
Discourtesy	75	3
Missing Property	35	1
Shooting Incident	12	0
Miscellaneous	49	10
Unknown Classification	0	1
TOTAL	453	40

Note: Some allegations involve multiple charges

Complaint Investigations & Disposition

Unfounded	54
Exonerated	36
Not Sustained	191
Sustained	42
Pending	26
TOTAL	349

Disciplinary Action Taken in Sustained Cases

Counseling and Oral Reprimand	16
Written Reprimand, no time loss	6
Written Reprimand, time loss	4
Extra Duty	0
Suspension	2
Resigned	2
Dismissed	7
No Action	8
Personnel unknown	0
Demotion	1
Total Personnel Involved:	46

Source: City of Miami Police Department

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Minor complaints are sent through the chain of command to the supervisor of the officer in question. The supervisor prepares written recommendations which are sent to the supervisor of the internal review section, records custodian, for action.

For complaints of a more serious nature, one of the five sergeants in internal review (one black and four white males as of June 1975) is assigned to investigate. He writes a summary of facts and other points relevant to the situation but makes no recommendation. This report is sent through the chain of command to the middle level supervisor--a lieutenant or captain---who then makes a recommendation in the case. If the charges are sustained the supervisor includes a recommendation for discipline. The report returns through the chain of command, with comments from numerous officers, to the internal review unit. There the file is reviewed by the head of internal review and the assistant director or director of the department of public safety, and recommendations are sustained or overruled. If the accused feels that the investigative report is not balanced, he or she can request a hearing before a department review panel. This appeal procedure is rarely used.

As of November 1975, if the punishment is suspension for 1 day or more, the accused can appeal to the county manager. The manager selects an attorney from a list of those certified to conduct an open hearing. Counsel may be present for both parties. This device interjects the attorney as a member of the general public to participate in the hearing. The decision of the hearing examiner is returned to the county manager who decides whether to accept or overrule that decision.

Chief Bobby Jones of the internal review section told the Advisory Committee that an investigation could be launched without a complaint. A report is made whenever force is used in an arrest, and a copy forwarded to internal review. If it appears that excessive force was used, or if force was used when the situation did not require it, an investigation is made. (Transcript, vol. IIa, p. 175.)

The public safety department made a study of all complaints received from January 1, 1974, through November 30, 1975. The total received was 1,281 complaints of which 767 had been acted upon; 241 were still under investigation.

EXHIBIT V
 REPORT OF DADE COUNTY DEPARTMENT OF PUBLIC SAFETY
 INTERNAL REVIEW SECTION

January 1, 1974 - November 30, 1975

Source: Department of Public Safety, Dade County
 Complaints by Allegation and Disposition

	Reported	Acted Upon	Sustained
Personnel Complaint (noncriminal)	603	538	35
Internal Review Investigations (misconduct)	312	174	29
Special Investigations (usually initiated internally)	93	55	19
Subtotal	1008	767	83
Legal Investigation (litigation)	273	N/A	N/A
TOTAL	1281		

Complaint Investigations and Disposition

Unfounded	127
Exonerated	275
Not Sustained	246
Sustained	83
Pending	36
Under Investigation	241
TOTAL	1008

Disciplinary Action in 767 Cases Acted Upon *

	Personnel Complaint	Internal Review Investigation	Special Investigation
Counseled	65	5	2
Trained	5	1	1
Review of Conduct	1	0	1
No Action	3	0	0
Reassigned	0	1	1
Verbal Reprimand	6	6	0
Written Reprimand	7	3	2
Suspended	4	11	6
Terminated	1	0	1
Resigned	3	7	7
Demoted	0	0	1
Dismissed	0	5	2
Retired	0	0	1
TOTAL	95	39	25

*No definitions of the action, i.e., terminated versus dismissed, were given.

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The complaints were divided into the following categories: personnel complaints (e.g., discourtesy), internal review investigations (e.g., brutality), special investigations (usually initiated internally), and legal investigations (litigation in process).

Based upon the number of complaints acted upon; personnel complaints accounted for 70 percent of the total; 6 percent of those were sustained. Internal review investigations accounted for 23 percent with 17 percent of those sustained. Special investigations accounted for only 7 percent with 35 percent sustained. There were 273 legal investigations conducted during this study period and, due to the nature of the investigations, they were not used for statistical purposes (see Exhibit V: Report of Dade County Internal Review Section, January 1, 1974--November 30, 1975).

The information does not indicate which cases were appealed, or the number sustained.* Additional data furnished by the department showed that of the 170 officers against whom complaints were lodged and whose conduct was investigated by the internal review section, 55 percent had previously had at least one complaint placed against them and another 27 percent had had at least three complaints lodged against them.

Both the Miami and Dade County police inform the complainant about the disposition of the complaint. The investigative report is not available to the complainant or the officer accused. Only police personnel are involved in an investigation or a review except when the accused officer initiates an appeal. Under the new county system of appeals (allowed when suspension is recommended) the civilian hearing officer may be involved in what may be considered minor complaints. The county does make an effort to publicize its complaint procedure. Brochures, in English and Spanish, which outline the procedures for filing complaints as well as the process of handling them are available to the public. The city does not produce any such educational material about its investigative procedures.

During the Advisory Committee's open meeting, a panel of media representatives discussed issues relating to police-community relations. Three members, representing two television stations and a newspaper, stressed the need for the internal review process to become more open. It was

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suggested that the entire disciplinary process be open to the public. The complainant would have to give a sworn statement, for which he or she could be prosecuted if perjury was determined. Media spokespersons felt that only when people viewed the process of complaint handling could public confidence be restored in the police departments. (Transcript, vol. IIb, pp. 98--102.)

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Notes to Chapter VI

1. Fla. Session Laws, Ch. 74-274 (1974).
2. "It should be mentioned that many suits against the City of Miami are filed without any possible forewarning that the individual may do so. Under these circumstances it is not surprising that the Internal Security Unit did not have any information concerning an alleged false arrest or excessive use of force or for any other reason. While Mr. Knight was right in his view that the Internal Security Unit was understaffed, he was in considerable error to assume that he would have complete files on every case that his company might be interested in." Watkins Letter no. 1, supra note 3, chapter III.
3. Transcript of testimony before the Miami City Commission, Nov. 6, 1974.
4. "Information gleaned from internal investigation cases which were subsequently appealed to the Hearing Examiner indicate that during the period January 1, 1974 through November 30, 1975, ten (10) internal review investigations were appealed. Of the ten (10) cases appealed, the initial disposition of two (2) cases were reversed or modified by the Hearings.

"Dade County Personnel Administration has maintained complete informational files reference this subject. Due to the impact of affirmative action programs and the apparent trend toward appealing disciplinary action, the Public Safety Department's Personnel Bureau is maintaining 1976 statistics relative to appeal hearings." Hampton Letter, supra note 3, chapter IV.

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VII. POLICE ORGANIZATIONS

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Professional organizations often serve to educate (formally and informally), to represent their membership to others, and to provide social encounters for their members. Thus, they are opinion shapers and leaders for their members. Police organizations play an important role in relations with the communities served. The Florida Advisory Committee talked with members of police organizations in Miami and Dade County.

In Miami there are four police organizations. One group is predominantly white, another black, a third Latin; the fourth has a mixed membership.

The Miami Police Benevolent Association (MPBA) was organized in 1935 and represented police personnel in city commission budget deliberations until 1971. It has a membership of about 400 for which it provides social and recreational activities, as well as legal assistance to officers who become involved in job-related court action. The MPBA membership is predominantly white. It refused membership to women and blacks until 1971, when the Miami Community Police Benevolent Association (MCPBA), the predominantly black organization, filed suit against it to open its organization. In June 1975 the newly elected president of the MPBA protested the promotion of a Latin lieutenant to major. Stating that he spoke only for himself, Sergeant James Cox called the action "un-American".¹

The Fraternal Order of Police (FOP) was organized in 1953 and first admitted black members 2 years later. It became the dominant organization in 1967 and negotiated the first contract with the city in 1972. It has approximately 1,000 members, representing officers of all ethnic groups, as well as women. The FOP president, Lieutenant Ken Harrison, called the promotion of the Latin from lieutenant to major "tokenism".²

Legal funds of the FOP and MPBA were used to defend white officers accused of beating a black plainclothes officer. All officers involved were FOP members. Subsequently, 14 black officers resigned from the FOP and charged that the legal funds of the organization were being

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... in a racially discriminatory manner.³ The organization makes such funds available at the discretion of the FOP and MPBA executive committees. (Transcript, vol. IIB, p. 44.)

In addition, the 14 officers charged the FOP had discriminated against blacks "...by their actions as friend of court in the case of Cohen v. the City of Miami..." and is discriminating now by "...fighting the Justice Department which is trying to secure certain rights which were previously denied to black officers."⁴

The FOP obtained a temporary injunction in April 1976 to set aside the U.S. v. Miami consent decree which had been worked out by the U.S. Department of Justice and the city.

Mr. Jessie McCrary, attorney for the Miami Community Police Benevolent Association (MCPBA), the predominantly Black police organization, told the Advisory Committee that the MPBA represented an attempt to keep the police department white and white-controlled. (Transcript, vol. Ia, p. 94.)

The MCPBA, composed of 75 blacks and 1 white, was organized in the 1940s. The MCPBA has twice resorted to court action to eliminate discrimination against black officers. It filed suit in 1971 to force the MPBA to open its membership to blacks.⁵ In 1973 it challenged the police department's hiring and promotional practices on the basis of discrimination. The Cohen consent decree resulted from the legal action.⁶

The fourth police organization is the Miami Police Department Hispanic-American Confederation which in June 1975 had 44 members out of the 51 Latin officers on the force. Latin officers have always been admitted to the other organizations, but it was stated that the Latins felt the need to come together to support their position on the force.⁷

Dade County

The county police, in effect, have only one organization because the same officers serve both the Fraternal Order of Police and Police Benevolent Association (FOP/PBA). When the organizations were chartered in 1963, minorities were among the charter members. Blacks and females have served as officers of the organization and a

black man was executive director of the FOP/PBA until April 1975. Sergeant James Duckworth, vice president of the FOP/PBA, told the Advisory Committee that there was no racial problem in the police organization or employment problems within the department. (Transcript, vol. IIB. p. 57.) Yet in June 1976 a suit was filed against the department of public safety by four black Dade County officers, a black woman applicant, and a black officers' group, the Progressive Officers Club. Discrimination against blacks and women in both hiring and promotion is charged.⁸

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2. Ibid.
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4. Ibid.
5. Adams
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Notes to Chapter VII

1. Miami News, June 17, 1975, p. A-10.
2. Ibid.
3. Miami Times, December 18, 1975.
4. Ibid.
5. Adams v. Miami Police Benevolent Association, 454 F.2d 1315 (5th Cir. 1972).
6. Cohen, supra note 2, chapter I.
7. Sergeant Gustavo Zenoz, president, Hispanic-American Confederation, interview in Miami, Oct. 10, 1974.
8. Miami Times, June 17, 1976, p. 1.

VIII. THE COMMUNITY SPEAKS

Numerous Miami area residents, the leaders of community organizations, and some police officers themselves told the Advisory Committee about mistreatment by both Miami and Dade County police. Their accusations included reports of harassment and police brutality. The inability of police personnel to speak Spanish was cited as a concern by numerous participants at the Committee's open meeting.

Miami Police Department

Residents of Miami reported being subjected to identification checks for no apparent reason, black men were reportedly called "boy," and a Cuban woman was physically injured by police when she was stopped for a minor traffic violation. (Transcript, vol. IIa, p. 15.) The Cuban woman did not speak English and neither of the arresting officers, both white men, spoke Spanish. When the woman did not leave her car as the policemen asked her to do, she was pulled from the car (by which action her arm was injured) and taken to the police station. Her citations were for an illegal left turn and for following another vehicle too closely. (Transcript, vol. IIa, pp. 103--108.) Following the Advisory Committee open meeting Miami police officials investigated these allegations and found "...there were conflicting statements by eye-witnesses."¹

A representative of a homosexual civil rights group was one of several speakers who criticized police for unwarranted identification checks. This spokesman also criticized the Miami Police Department for a raid conducted at a private "gay" club. Forty-three persons were arrested, the membership records of the club were seized, and club members were verbally abused. Based on an invasion-of-privacy motion, all charges were dismissed against those arrested; the court ordered the membership records returned and stipulated that the police had absolutely no right to seize them. (Transcript, vol. IIa, pp. 127--129.)

In response to this criticism, police officials wrote that "Sgt. Richard Dewitt of the Internal Security Unit accompanied the Vice Squad on the raid and noted that all members conducted themselves in a proper manner."² Regardless of the "manner" in which the police conducted themselves, the court found the police action to be a completely unwarranted invasion of privacy.

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A widely publicized incident involving police brutality occurred in September 1974. Four uniformed white police officers mistook a nonuniformed undercover black officer for a drug suspect. The black officer was handcuffed and beaten. He was not resisting arrest, but had tried to identify himself.³

Another incident occurred a few months earlier when the staff of a television station and a utility linesman witnessed several police beating and kicking a handcuffed black person, who as a result lost an eye. The witnesses protested to the officers the excessive use of force and later, independently of each other, contacted the internal security section. Little apparently had been done in the case until the Miami City Commission's hearing on November 6, 1974.⁴

Sergeant Dan Bailey of the Miami force told the Advisory Committee that when working as a plainclothes officer he had been confronted belligerently by white officers. (Transcript, vol. IIb, pp. 62--63.)

Cubans and Puerto Ricans suggested that there was a difference in the treatment they received from police. A Cuban sergeant indicated that there was little brutality toward the Cuban residents but that white officers demonstrated a feeling of superiority which created bad feelings.⁵ Rafael Villaverda said that Cubans were frequently subjected to identification checks when they simply gathered in the street. (Transcript, vol. IIa, p. 62.) A social worker in the Puerto Rican community said treatment for Puerto Ricans was harsher. They are harassed, she said, discriminated against, and had come to regard the police as their worst enemy. (Transcript, vol. IIa, p. 66.) All these Spanish-speaking persons agreed that officers need to know Spanish in order to deal with the Latin population.

The city police have undertaken some programs in the past to improve communications with the people they serve. In 1969 a community relations section was formed within the department. It now has 10 sworn officers. A special unit of five officers was set up to meet with community leaders. These specialized officers took a 40-hour course taught by black residents which was designed to familiarize them with black culture. A year later, there was an 80-hour community interaction program and also an "area-residents dialogue".

In 1973 the city offered a 40-hour course in Spanish for police officers. In 1975 it required an 8-hour course for all sworn and some civilian personnel.

At present, "town hall" type meetings are held periodically throughout the community with high-ranking officers participating.

Dade County Department of Public Safety

For the most part, residents who spoke to the Advisory Committee voiced complaints against Dade police similar to those lodged against Miami police: harassment, brutality, and problems with a language barrier.

Ralph McCartney, a vocational counsellor in Miami, cited several instances of unwarranted identification checks and harassment. He reported that a young black woman was searched by a white male officer of Dade County after being asked for identification. There were three other white officers present; one was a woman, yet the male officer searched the young black woman. (Transcript, vol. IIa, p. 10.)

One spokesman pointed out that the Dade police make a practice of going into black clubs and checking identification. "They don't go to Miami Beach and ask for identification," he pointed out, adding:

They don't raid the Fontainebleau, that prostitute spot...they come downtown and they catch a woman walking down the street and they stop her and question her---because she's standing at a bus stop where, possibly, prostitutes are supposed to be. (Transcript, vol. IIa, p. 23.)

A Cuban reported an incident and accused Dade police of brutality. Raymond Rodriguez told the Advisory Committee that he was beaten with the gun and fists of a white male plainclothes officer. Mr. Rodriguez was working at a car wash when the officer got out of his car with a shotgun. Mr. Rodriguez thought the officer was a robber; he hid on the floor of a car, and the reported beating took place when the officer tried to get him out of the car. Mr. Rodriguez speaks no English. (Transcript, vol. IIa, pp. 115--124.) The Dade County officer was in pursuit of truck hijackers said to be in the area. He said that Mr. Rodriguez tried to

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take his shotgun; he reported that he said several times in Spanish, "Stop, police."⁶

The Dade County Community Relations Commission charged that Dade police are especially unresponsive to the southern part of the county where many labor camps exist.⁷ It was said that when a stabbing was reported to the police no officer was dispatched.⁸ The father of the victim pursued the assailant himself. Repeated calls to the police finally brought an officer to the scene after a long delay.⁹

Within the Dade County Department of Public Safety there is a unit, the community services section, charged with responsibility to educate police officers in community affairs and to encourage the public's involvement in law enforcement. The first responsibility is met through internal communications and training. The second is met through four programs: public information programs (pamphlets, news articles, etc.), community relations programs (councils, meetings, liaison, neighborhood field work), school programs, and crime prevention programs. Director Wilson Purdy, of the Dade County Department of Public Safety, meets periodically with groups of blacks, Latins, and women in the police force. There is no set agenda; the purpose is for officers to tell their chief what is on their minds.

Media's Perspective

Journalists from Miami's television and radio stations and newspapers were invited to participate in the Florida Advisory Committee's open meeting. Other individuals who appeared before the Advisory Committee stated a belief in the power and responsibility of the media to deal with the relationships between police and the community. (Transcript, vol. IIb, p. 76.) It was that same belief which prompted the Advisory Committee to invite Latin, Anglo, and black journalists of both sexes to contribute to this study.

Recruitment of police officers, the attitudes of police, internal investigations, and the importance of bilingualism for police were among the topics discussed by the broadcasters and journalists.

A negative attitude among police toward minorities and women does have an adverse effect on recruiting police

candidates from those groups. (Transcript, vol. IIB, p. 88.) Promoting careers in the law enforcement profession was seen as a valid role for media. However, Al Margoles, president of WMBW radio, indicated that as long as police-themselves, and their professional organizations, shun minorities and say there are no problems for minorities on the force or in the community, the efforts of media would have limited impact. (Transcript, vol. IIB, pp. 97--98.)

Several journalists expressed the opinion that the heads of both Miami and Dade County police were trying to bring about changes in the attitudes and public images of their police forces. (Transcript, vol. IIB, p. 97.) The effective public relations campaign of Dade County Director of Public Safety Wilson Purdy was cited as an example of how officials can communicate in a positive manner through the media if they desire:

When Director Purdy took over the sheriff's department in 1966 it had a pretty lousy image. And how did he change that image? Well, he hired somebody in his department who was a professional reporter, a journalist...and in a year and a half or two years...saturated us with stories....The image of the Public Safety Department was changed literally overnight. (Transcript, vol. IIB, 91--92.)

The fact that police officials have the resources and know-how to improve relations with minorities and women and thereby attract candidates from their ranks is implicit in the preceding statement by Fred Francis of WTVJ-TV.

Al Margoles praised Miami's Chief Watkins for his efforts to personally communicate with citizens: "I've been down to some of the meetings in the middle of the black area with him in the past few weeks. He is doing some fantastic things but the people don't yet know it." (Transcript, vol. IIB, p. 88.) Again, the same suggestion is made: The police should use the media to pass on the good news of police activities to the public.

Joanna Wragg, editorial writer for the Miami News, proposed that if police personnel had respect and concern for all citizens---regardless of color, national origin, or sex---then police officials would not be forced to employ a set percentage of blacks, Latins, or women: "It's not just

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people's color or the accent with which they speak...it's the whole attitude". (Transcript, vol. IIb, p. 95.)

Opening the internal investigation process to the public was recommended by several of the journalists. Special police and court reporter Clarence Jones of WPLG-TV noted that many good investigations do take place; others are not so good. In his opinion, opening all procedures to the public would ensure more good investigations. (Transcript, vol. IIb, p. 98.)

The fact that citizens often are unfamiliar with the process of filing a complaint against the police, and that the result of an investigation is seldom made known to the general public, was criticized. Past experiences where the resolution of complaints has not been made clear to the public have contributed to the lack of credibility of the city's internal investigative system. (Transcript, vol. IIb, p. 100.)

One reporter indicated that legal assistance for citizens with complaints would be beneficial. A citizen without private financial resources has no recourse except a court of law if he is unsatisfied with the result of an internal review. (Transcript, vol. IIb, p. 82.)

The public should be encouraged to protest unprofessional conduct in police officers. The representatives of media felt that their stations and newspapers did play, and would continue to play, an active role in the investigative reporting of police misconduct and citizens' complaints. Several of the reporters emphatically stated that there were no "sacred cows" in their newsrooms. They viewed the reporter as a combination of ombudsman, listening post, and bearer of the news. (Transcript, vol. IIb, pp. 81--86.)

Clarence Jones proposed making complaints against police in the form of a sworn statement. Thus, the complaints would become a public record and open to the public. Any who filed false complaints would be subject to charges of perjury. (Transcript, vol. IIb, p. 98.)

Having police officers who could speak both Spanish and English was viewed as an asset by all the media panelists. Dr. Horacio Acquirre, publisher and editor of the Diario Las Americas, said it most succinctly: "There are many cases in

which the police department could help the community if they have enough personnel [who are] bilingual." (Transcript, vol. IIB, p. 103.) "There's no question," said Clarence Jones, "that in this community, no matter what you do, if you deal with the public you can do it much better if you speak Spanish." (Transcript, vol. IIB, p. 106.)

Provision for police officers of different race, sex, or language ability to work together was suggested. The officers could learn from each other, and each would be able to deal with a segment of the population with which his partner perhaps could not. (Transcript, vol. IIB, p. 107.)

The ability to speak Spanish and to communicate in the dialect of black or other ethnic communities was emphasized. The primary concern, in the opinion of Joanna Wragg, should not be to have officers of a certain color or national origin, but to have officers who can communicate with the diverse populace of Miami and Dade County. (Transcript, vol. IIB, p. 105.)

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Notes to Chapter VIII

1. Chief Garland Watkins, letter to Courtney Siceloff, Aug. 26, 1975 (hereafter cited as Watkins Letter no. 2).
2. Ibid.
3. City Manager Paul Andrews, memo to Honorable Members of the City Commission, re. Officer Joseph L. Cook---Andy's Motor Inn Incident, Oct. 11, 1974.
4. Supra note 3, chapter VI.
5. Sergeant Gustavo Zenoz, interview in Miami, May 20, 1975.
6. Watkins Letter no. 2, supra note 1, chapter VIII. Though this incident took place in Miami, it was handled by Dade County officers and recorded in a Dade County police report.
7. "For the past five to seven years when some 30-40 labor camps existed, there has been a sharp decline in the number of camps. At present, there are only four camps of any size; (1) Everglades Labor Camp, State Road #27 and approximately 380th Street; (2) Redlands Labor Camp, South Dixie Highway and 296th Street; (3) South Dade Labor Camp, Avocado Drive and S.W. 137th Street; and (4) Campbell Quarters at S.W. 248th Street.

"This decline has been attributed to standards set and enforced by the State.

"During the period covering the hearings, the Public Safety Department furnished off-duty police officers for the Everglades Labor Camp and paid their salaries at overtime rates. There were always two officers on duty from 5:00 p.m. to 7:00 a.m., Monday through Friday and 24 hours daily on weekends during the seven months a year that the camp was in operation.

"The South District provided the labor camps periodic patrols by uniform members of the Crime Prevention Units (CPU) and the Agriculture Patrol. Additionally, members of the Safe Streets Unit maintain close liaison with the camps through Mr. Rudy Juarez of Operation Amigo, Inc. During the covered period, the district did furnish off-duty officers

(paid by the requestor) when requested for special events in the camps.

"Members of the South District, General Investigation Unit, conducted a follow-up investigation initiated by uniform officers into forced labor at the Far South Labor Camp. The investigation culminated with the arrest of Joe Brown, a crew chief, charged with slavery." Hampton Letter, supra note 3, chapter IV.

8. "The stabbing incident...was unknown to present staff of the district and research of files gave negative results." Hampton Letter, supra note 3, chapter IV.

9. Staff of Dade County Community Relations Commission, interview in Miami, May 20, 1975.

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IX. FINDINGS AND RECOMMENDATIONS, MIAMI
POLICE DEPARTMENT

On the basis of findings from the open meeting in Miami, June 20 and 21, 1975, that have been substantiated by data compiled by the Advisory Committee members and Commission staff, the Florida Advisory Committee directs recommendations under the rubric "Eligibility for Employment: Latins" to the Attorney General of the State of Florida and to the U.S. Commission on Civil Rights for the consideration of the Attorney General, U.S. Department of Justice.

Recommendations are made to the Miami city commissioners and the Miami chief of police for specific actions in three other categories: recruitment, selection, and promotion; communication; and internal review.

Eligibility for Employment: Latins

Findings

Florida State Law (Fla. Stat. Ann. §943.13) restricts employment of police officers to citizens of the United States. The effect of this statute is to preclude any representation on the police force of the vast number of aliens (particularly Cuban refugees) residing in Miami.

With regard to aliens lawfully admitted for permanent residence¹ (i.e., resident aliens) the Florida Advisory Committee takes notice that any such alien is a "person" within the meaning of the 14th amendment and, as such, is entitled to equal protection of the law.² The Florida Advisory Committee notes that the Supreme Court on two separate occasions has ruled both State³ and Federal⁴ civil service regulations barring resident aliens from government employment unconstitutional.

Further, with regard to Cuban resident aliens, the Florida Advisory Committee notes that the Congress has granted discretionary authority to the Attorney General of the United States to adjust the status of Cuban refugees to the status of aliens lawfully admitted for permanent residence.⁵ In view of this, the Advisory Committee is of the opinion that Congress, in specifically granting this extraordinary form of relief (i.e., circumventing ordinary

immigration procedures), did not intend that upon having achieved this status, Cuban resident aliens would be otherwise barred from equal access to any State public employment. 6

The Florida Advisory Committee finds that the employment of resident aliens by the Miami Police Department in proportions approximating their presence in their respective ethnic population in the city would be a positive factor in developing and maintaining healthy police-community relations in the city of Miami.

The Florida Advisory Committee wholeheartedly endorses the statement, and similarly finds with the court in C.D.R. Enterprises, Ltd. v. Board of Education, that:

The state has a duty to all its lawful residents, resident alien or citizen. It must try to see to it...that they have equal access to state public employment and that they have equal access to private employment. Its duty...is as much a duty to the alien as to the citizen. 7

Recommendations

The Advisory Committee recommends that the Attorney General of the State of Florida review Fla. Stat. Ann. §943.13 and render an opinion on its constitutionality. Further, the Committee recommends that the U.S. Commission on Civil Rights urge the U.S. Department of Justice to consider the advisability of challenging the statute in the appropriate Federal district court.

Recruitment, Selection, and Promotion

Finding 1

Minorities and women continue to constitute disproportionately small percentages of the Miami Police Department and continue to be even more underrepresented in the higher salaried positions within the department. A satisfactory goal to correct the situation is that goal already agreed to by the city of Miami in the Cohen consent decree (with regard to minorities) and the U.S. v. Miami consent decree (with regard to women as well as minorities),

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i.e., that the city shall achieve, as a minimum, the participation at all levels in the police department of minorities and women in numbers approximating their respective proportions in the city's labor force. This goal is necessary not only to achieve the constitutional imperative of assuring minorities and women equal access to employment on the Miami Police Department but is also necessary to achieve and maintain a police force that reflects the culturally pluralistic constituency it is sworn to serve and protect.

Recommendations

The current status of the U.S. v. Miami consent decree notwithstanding, the Florida Advisory Committee recommends that the city of Miami, through its governing body, the city commission, continue to abide by its express commitment in the decree regarding hiring and promotion of women and that the city, as an expression of good faith, if not strictly as a court-ordered legal imperative, pursue and achieve, with specific timetables, its goal of proportional participation by women as well as minorities at all levels of the police department.

The Florida Advisory Committee recommends that the city of Miami, with regard to achievement of the goals mentioned above, recognize its commitment to those goals by seeking to aid the reinstatement of the U.S. v. Miami consent decree so that the specific provisions with regard to achievement of the hiring and promotion goals stated therein can be implemented as soon as possible.

To ensure that minorities and females become truly represented in the entire police department, the Florida Advisory Committee recommends to the Miami Police Department that provisions be made to assign minorities and females in a manner to achieve representation of minorities and females at all levels within the Miami Police Department.

Finding 2

The now defunct Tri-Cultural Program (i.e., Law Enforcement Community Outreach and Career Program) under the direction of the city manager was an effective tool for

recruitment of minorities and females for the Miami Police Department. Under the U.S. v. Miami consent decree, the city was charged with continuing the Tri-Cultural Program as long as Federal funds were available and, in absence of Federal funding, to develop a similar program to be submitted to the U.S. Department of Justice for approval prior to its commencement.⁸ These requirements were legally waived when the consent decree was temporarily set aside in April of 1976. Subsequently, all recruitment activity has been moved from the city manager's office to the police department. The U.S. Department of Justice was not consulted about the move. Because of the demonstrated past success of the Tri-Cultural Program in recruiting minorities and females and, conversely, because of the demonstrated past failure of the police department in this regard, the Florida Advisory Committee finds that minority and female recruitment efforts are likely to suffer due to the demise of the Tri-Cultural Program and the subsequent placement of recruitment efforts under the supervision of the police department.

Recommendations

As a demonstration of good faith regarding the recruitment of minorities and women and as a commitment to its agreement under the U.S. v. Miami consent decree, the Florida Advisory Committee recommends that the city of Miami develop a police officer recruiting program similar to that of the Tri-Cultural Program (under direction of the city manager). The Advisory Committee also recommends that the program be submitted to the U.S. Department of Justice for comment prior to its commencement.

Finding 3

Recruitment of minorities and women for the selection process is of little value unless significant numbers of minorities and women ultimately become police officers. Since the requirement in Cohen for an independent organization to prepare, monitor, and score entrance exams, two such entrance exams have been administered under the direction of the Industrial Relations Center of the University of Chicago. Despite the overwhelming failure of the majority of those taking the tests, minorities and females have generally passed the exams in the same ratios as those who took the exams. One disturbing exception to

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this is the fact that black males in both tests scored the lowest of any group tested.

Recommendation

The Florida Advisory Committee recommends that the city of Miami, through its contract with the industrial relations center, investigate the demonstrably higher rate of failure of black males to ensure that the exam in no way discriminates unfairly against black males.

Finding 4

In addition to being recruited and passing the entrance exam, all prospective police officers undergo a series of other requirements (i.e., polygraph, medical, physical agility and swimming, and supplementary psychological tests) before they can enter the Southeast Florida Institute of Criminal Justice. Of the 110 persons on the April 1975 register, nearly half were disqualified because of failure to meet the standards required under the other requirements listed above. While the numbers of minorities and females "washed" from the register are generally not disproportionate to the number of white males similarly disqualified, the effect is to drastically reduce the number of minorities and females (who have already passed the entrance exam) who can become police officers. It is understood that the industrial relations center has been instructed by the city of Miami to review all requirements for selection.

Recommendation

The Florida Advisory Committee recommends that the city of Miami, via the industrial relations center, place the same scrutiny upon all of the remaining selection requirements as has been done with the entrance exam itself to ensure that all selection requirements are rationally designed to measure potential job performance.

Finding 5

Each month the Miami Police Department issues a detailed analysis by race and sex of civilian and sworn personnel. Copies are distributed within the police department, to the city manager, to the director of

community affairs within the manager's office, and to the civil service commission. The Equal Employment Opportunity Program, which is prepared annually, contains a yearly analysis of personnel with a narrative outlining plans for correcting any imbalance by race or sex that exists in the department. The program has a more limited distribution, going to the chief, assistant chief, city manager, director of community affairs, and LEAA.

Recommendations

The Advisory Committee recommends that the chief of police make copies of the monthly analysis and the Equal Employment Opportunity Program available to the public by sending a copy to the public library and to the Dade County Community Relations Board as well as making a copy available at the department itself. The Advisory Committee also recommends that the EEOP be made available in Spanish.

Finding 6

Results of the Wechsler Adult Intelligence Test, given to identify psychopathic personality traits, are kept in the files of police officer candidates. The industrial relations center recommended using this test as a research tool to be examined in relation to the background check, performance at the police institute, and later job performance. The Advisory Committee realizes the need to develop tools which will allow a police department to identify persons who would be most suitable for police work. However, since the Wechsler test is not now recognized as a valid device for such screening, it is inappropriate to place the results of the test in a police officer candidate's or police officer's personnel file.

Recommendation

The Advisory Committee recommends to the city commissioners that, pending validation of the Weschler test as a method of identifying psychopathic personality traits, the results of the test be excluded from personnel files.

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Finding 7

The oral review board teams, which interview police officer candidates, aim at evaluating the variables of non-verbal and verbal communication, attitude, and motivation. Each team (five which rotate) includes three officers (minorities must be included) and a psychologist as a consultant. The board teams receive training for their duties. There is no provision to include women as team members.

Recommendations

The Advisory Committee recommends to the chief of police that provisions be made to include women on the oral review board teams. Expanding the teams to include four persons so that blacks, Latins, Anglos, and women will all be represented is also recommended.

Finding 8

The 14-question polygraph test administered to police officer candidates includes references to questions found in a lengthy pretest polygraph questionnaire. Several items on the questionnaire appear to bear no direct relationship to job performance as a police officer. The Advisory Committee recognizes the need to gather facts about the behavior and character of law enforcement officers and to work toward determining which screening techniques detect those traits that contribute to the development of a good or unfit police officer. However, the job-relatedness of some polygraph questions and references is still questionable. Candidates whose polygraphs show patterns of misconduct or deception are reviewed and the candidate may be retested. He or she is not automatically disqualified.

Recommendation

The Advisory Committee recommends that the chief of police, Miami Police Department, refer to the U.S. v. Miami consent decree and adopt the policy stated therein for the use of the polygraph,⁹ i.e., a polygraph examination would be administered only to applicants for positions requiring bonding and positions of trust or security. In no event would an applicant be asked any questions which are not directly job-related.

Communication

Finding 1

There is an uneasy tension between minorities and police. Many police are unable to communicate with Latins who speak only Spanish. Some Latins feel that police treat them as inferiors. Black and Latin men and women reported being harassed and intimidated by police. Reports of alleged brutality and verbal abuse by Miami police have not been resolved to the satisfaction of residents of the city.

The police community relations section and personnel training section do provide some training in human relations skills for officers. Both sections have other duties as well.

Recommendations

The Advisory Committee recommends to the city commission that the overall programs and responsibilities of the community relations and personnel training sections that relate to human relations training be reviewed by sources outside of the department with experience in interpersonal communication and human relations skills as related to police work. Further, the Committee recommends to the chief of police that a systematic, continuous, and compulsory inservice program to train all officers in human relations skills be established.

Finding 2

The department previously offered a 40-hour course in Spanish. An 8-hour course is currently available for personnel who have regular contact with Latins.

Recommendations

The Advisory Committee recommends to the chief of police that he institute: an increase in language instruction which will provide proficiency in conversational Spanish for all appropriate personnel; a systematic and continuous inservice training program to achieve this goal; and a provision that the ability to speak Spanish will be a factor in consideration for promotion.

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Internal Review

In general, the Advisory Committee believes that a new system for investigating complaints against police, a new system of recordkeeping, and a new system of decisionmaking need to be developed. It is strongly urged that the department seek assistance from knowledgeable persons who can develop a new system of internal review. The Committee, however, does make some specific recommendations, which follow.

Finding 1

Few complaints that reach the internal review unit are sustained. The unit does not have sufficient personnel to adequately investigate complaints and has been cited for poor performance by the insurance attorney investigating civil complaints filed against the police. It is reasonable to assume that there may be some correlation between the unit's lack of adequate personnel on the one hand and its poor performance and inability to sustain the complaints of citizens on the other.

Recommendation

The Advisory Committee recommends to the chief of police that the number of personnel assigned to the internal review unit be increased so that comprehensive investigations of all complaints can be conducted. Such thoroughness would perhaps result in the lowering of insurance rates and would certainly improve the credibility of the police force with its community.

Finding 2

The procedures and records of investigations conducted by the internal review unit are not open to complainants or to the general public unless the case has been appealed to the civil service board.

Recommendations

The Advisory Committee recommends to the chief of police that the departmental disciplinary review board sessions should be open to the public. The President's Commission on Law Enforcement and Administration of Justice Task Force report, The Police (1967),

recommended such action. And, with some restrictions, Florida Attorney General Robert B. Shevin voiced the same opinion in 1973 (see appendix E). Specific procedures from the President's Commission report follow and are recommended by the Advisory Committee for adoption by the Miami Police Department:

- (1) The hearing should be open to the public.
- (2) The complainant and any witnesses he or she desires should be present.
- (3) Both the officer and the complainant should have subpoena powers, be represented by counsel, and be able to see the investigation report if they so desire.
- (4) There should be opportunity for cross-examination by both the officer and the complainant.
- (5) If desired by any party, a transcript should be made.
- (6) The decision should be prompt---probably no more than a month, except in unusual cases---after a complaint is filed.
- (7) The trial board should render an opinion containing findings of all important facts and explaining its reasoning.
- (8) Once the decision on a complaint has been made, the complainant should be notified of the...basis for it.
- (9) The public should have access to the facts of the case and the nature of the decision.

Finding 3

The representation of minorities and women on the civil service board is not ensured. The five-person board includes two city employees elected by their colleagues and

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three appointees of the city commission. All serve concurrent 2-year terms.

Recommendations

The Advisory Committee recommends that the city commission revise its procedures for selecting members of the civil service board so that minorities and women will be represented, and that terms of members should be staggered rather than concurrent to ensure continuity.

Because the board is a source of appeal for complaints against police, the Advisory Committee recommends that city employees not be eligible for membership. The public's confidence in its police force is undermined when police are judged by their colleagues.

Finding 4

There is no printed material available that explains the complaint procedure.

Recommendation

The Advisory Committee recommends to the Miami chief of police that a brochure in English and Spanish, describing the internal review unit, places where complaints can be filed, procedures for investigation, rights of the complainant, rights to the records, disposition of the case, and rights of appeal be prepared and disseminated.

Finding 5

There have been a number of persons who related to the Advisory Committee alleged instances of police misconduct. In cases involving arrests, questions were sometimes raised concerning the credibility of the complainants. In two incidents referred to in the chapter "The Community Speaks," there were extraordinary witnesses or complaints: in one case an officer on duty was beaten; in the other, media and public utility staff persons were witnesses. In these situations, the department was slow to respond to the complaints. These incidents suggest that they were not isolated cases but that there are members of the force who continue to act in a nonprofessional manner. The Miami

Police Department has not demonstrated that it is adequately dealing with this explosive situation.

Recommendation

The Advisory Committee recommends that the chief of police use the internal review process to identify officers who repeatedly have complaints lodged against them. These persons should receive special counseling and training that will help them learn to deal with community residents in a positive and constructive manner despite the tensions inherent in police work. Depending on the merit and severity of the complaints, disciplinary action, reassignment to positions with minimal public contact, or other measures should be employed when police officers continue to have such complaints lodged against them.

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Notes to Chapter IX

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1. The term "lawfully admitted for permanent residence" means the status of having been lawfully awarded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed. (8 U.S.C. §1101(a)(20)).
2. Graham v. Richardson, 403 U.S. 365 (1971).
3. Sugarman v. Dougall, 413 U.S. 634 (1973).
4. Hampton v. Mow Sun Wong, no. 73-1596 (U.S., issued June 1, 1976; Stevens, J.).
5. Public Law 89-732, 80 Stat. 1161 (8 U.S.C.A., §1255 nt.) allowing U.S. Attorney General discretion to adjust status of any alien who is a native or citizen of Cuba who has been inspected and admitted or paroled into the United States to the status of "alien lawfully admitted for permanent residence."
6. "[S]tate regulation not congressionally sanctioned that discriminates against aliens lawfully admitted to the country is impermissible if it imposes additional burdens not contemplated by Congress" De Canas v. Bica, 44 U.S.L.W. 4235, 4237 n. 6 (U.S. 1976). See also, C.D.R. Enterprises v. Bd. of Educ. of N.Y.C., 44 U.S.L.W. 2472 (USDC ENY, 1976) (three-judge court), which held (J. Platt, dissenting) that New York statute granting public works employment preference to citizens who have resided in New York for at least 12 months violates supremacy clause and equal protection clause.
7. 44 U.S.L.W. 2472, 2473.
8. U.S. v. Miami, §2(b) (appendix D).
9. U.S. v. Miami, §3(g) (ii) (appendix D).

X. FINDINGS AND RECOMMENDATIONS, DADE COUNTY
DEPARTMENT OF PUBLIC SAFETY

On the basis of findings from the open meeting in Miami, June 20 and 21, 1975, that have been substantiated by data compiled by the Advisory Committee members and the Commission staff, the Florida Advisory Committee directs recommendations under the rubric "Eligibility for Employment: Latins" to the Attorney General of the State of Florida and to the U.S. Commission on Civil Rights for the consideration of the Attorney General, U.S. Department of Justice.

Recommendations are directed to the Dade County commissioners, to the director of the department of public safety, and to the U.S. Commission on Civil Rights for the consideration of the U.S. Law Enforcement Assistance Administration for specific actions in three other categories: recruitment, selection, and promotion; communication; and internal review.

Eligibility for Employment: Latins

Findings

Florida State Law (Fla. Stat. Ann. §943.13) restricts employment of police officers to citizens of the United States. The effect of this statute is to preclude any representation on the police force of the vast number of aliens (particularly Cuban refugees) residing in Dade County.

With regard to aliens lawfully admitted for permanent residence¹ (i.e., resident aliens), the Florida Advisory Committee takes notice that any such alien is a "person" within the meaning of the 14th amendment and, as such, is entitled to equal protection of the law.² The Florida Advisory Committee notes that the Supreme Court on two separate occasions has ruled both State³ and Federal⁴ civil service regulations barring resident aliens from government employment unconstitutional.

Further, with regard to Cuban resident aliens, the Florida Advisory Committee takes notice that the Congress of the United States has granted discretionary authority to the Attorney General of the United States to adjust the status

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of Cuban refugees to the status of aliens lawfully admitted for permanent residence.⁵ In view of this, the Advisory Committee is of the opinion that Congress in specifically granting this extraordinary form of relief (i.e., circumventing ordinary immigration procedures) did not intend that upon having achieved this status, Cuban resident aliens would be otherwise barred from equal access to any State public employment.⁶

The Florida Advisory Committee finds that the employment of resident aliens by the Dade County Department of Public Safety in proportions approximating their presence in their respective ethnic population in the county would be a positive factor in developing and maintaining healthy police-community relations in Dade County.

The Florida Advisory Committee wholeheartedly endorses the statement, and similarly finds with the court in C.D.R. Enterprises, Ltd. v. Board of Education, that:

The state has a duty to all its lawful residents, resident alien or citizen. It must try to see to it...that they have equal access to state public employment and that they have equal access to private employment. Its duty...is as much a duty to the alien as to the citizen.⁷

Recommendations

The Advisory Committee recommends that the Attorney General of the State of Florida review Fla. Stat. Ann. §943.13 and render an opinion on its constitutionality. Further, the Committee recommends that the U.S. Commission on Civil Rights urge the Attorney General, U.S. Department of Justice, to consider the advisability of challenging the statute in the appropriate Federal district court.

Recruitment, Selection and Promotion

Finding 1

Minorities and women continue to constitute disproportionately small percentages of the Dade County Department of Public Safety and continue to be even more

underrepresented in the higher salaried positions within the department. A satisfactory goal to correct this situation is that the department of public safety shall achieve the participation, at all levels of the police department, of minorities and women in numbers approximating their respective proportions in the labor force of the department's service area. This goal is necessary not only to achieve the constitutional imperative of assuring minorities and women equal access to employment in the Dade County Department of Public Safety, but is also necessary to achieve and maintain a police force that reflects the culturally pluralistic constituency it is sworn to serve and protect.

Finding 2

The department's Equal Employment Opportunity Program (EEOP) presently establishes a minority composition goal that is the bare minimum necessary to avoid a possible post-award compliance review by the Law Enforcement Assistance Administration. The department has established a 7-year period in which to achieve this minimum goal. With regard to hiring of women (where there is no LEAA regulation defining what constitutes a "significant disparity" of women employed by a recipient agency) the department's EEOP establishes a goal of 10.5 percent female composition to also be achieved in a 7-year time period. This goal of 10.5 percent is far below the actual percentage of women in the department's service area. The establishment of such minimum goals and the 7-year period in which to achieve such minimum representation is simply not acceptable to ensure adequate and timely representation of minorities and women in the Dade County Department of Public Safety.

Recommendations

The Advisory Committee recommends to the director, department of public safety, that the ultimate goal for employment be nothing less than participation, at all levels of the department, of minorities and females in numbers approximating their respective proportions in the labor force of the department's service area. To achieve this goal, the director is further urged to establish yearly goals of minority and female hiring that will achieve this ultimate goal of full minority and female representation in the department within the shortest time frame administratively feasible.

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To ensure that minorities and females become truly represented in all areas of the department, the Advisory Committee recommends to the director, department of public safety, that provisions be made to assign minorities and women in a manner to achieve their representation at all levels within the department.

Finding 3

At the end of the first year of operation of the Equal Employment Opportunity Program (June 30, 1976), the department had nearly tripled the projected annual 100-person increase in the size of the force. No adjustment was made in the EEOP minority and female hiring goals to conform with the increase in the size of the force. In the first year the Equal Employment Opportunity Program was in effect, the department, therefore, had fallen significantly behind in minority and female representation based upon the actual size of the force.

Recommendations

The Advisory Committee recommends that the U.S. Commission on Civil Rights (through the U.S. Attorney General) urge the Law Enforcement Assistance Administration to conduct a review of the Dade County Department of Public Safety's Equal Employment Opportunity Program and exercise whatever appropriate authority is under its jurisdiction to ensure that the department has an EEOP that is accurately and meaningfully designed to overcome the ongoing disparity of minority and female representation on the force.

Finding 4

Statistics for fiscal year 1975 illustrate that both the numbers of minority members and women taking the written entrance exam and the numbers of those passing the exam are disproportionately low in terms of the numbers of minorities and women in the labor force served by the department of public safety. Despite the past efforts by the department, therefore, effective recruitment of minorities and women has not been substantial. With Miami's Tri-Cultural Program as an example, the Advisory Committee finds that a recruitment program independent of the police agency is a better vehicle

to recruit minorities and women for employment in the department.

Recommendations

The Advisory Committee recommends that the Dade County commissioners establish a program independent of the department of public safety within the office of the county manager devoted entirely to the recruitment of persons for the department and to providing assistance to applicants (particularly minorities and women) regarding selection procedures and training at the police institute. When the present hiring freeze is lifted, the Advisory Committee further recommends that the recruitment program be accelerated accordingly in order to ensure that sufficient numbers of minorities and women will be attracted to careers in law enforcement.

Finding 5

Applicants are required to take a written examination for the position of police officer in the department of public safety. The exam is academically oriented and designed to evaluate the applicant's ability to complete training at the police institute. The police institute's program, which emphasizes academic skills, has not been validated for job-relatedness. Despite whatever past efforts may have been made regarding validation of the written exam, the fact that during fiscal year 1975, 80.5 percent of the white males tested passed the exam while only 17.7 percent of the black males tested passed renders the accuracy of such validation suspect.

Recommendation

The Advisory Committee recommends that the county commissioners require that all selection procedures, including the written exam, be validated by an independent organization to ensure that all selection procedures are designed solely to measure ability to perform as a police officer.

Finding 6

Neither a minority person nor a female holds an administrative rank in the sworn force. Out of a sworn

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force of 1,570 persons, one black male and one Latin male hold the rank of lieutenant, the highest rank held by a minority member; sergeant is the highest rank held by a female.

Recommendations

The Advisory Committee recommends to the director, department of public safety, that immediate appointments of minorities and females be made to decisionmaking positions with the rank of major and above.

The Advisory Committee further recommends that the director develop a program that will ensure the promotion of minorities and women to supervisory positions commensurate with their numbers in the department.

Finding 7

The department of public safety makes an analysis of civilian and sworn personnel by race and sex only once a year; the analysis is included in the department's required Equal Employment Opportunity Program. A more frequent analysis would enable the director, the county manager, and the county commissioners, as well as the public, to monitor the movement toward compliance with the EEOP. Twelve copies of the plan are distributed within the department and other copies go to the county manager, the personnel director, the public information office, and the municipal library.

Recommendations

The Advisory Committee recommends that the director, department of public safety, begin on a monthly basis a detailed analysis of civilian and sworn personnel with a breakdown by race, sex, and position or rank.

The Advisory Committee further recommends that copies of the monthly analysis of the EEOP be sent to all of the current recipients of the EEOP and also (along with the EEOP) to the Dade County Community Relations Board. The Advisory Committee also recommends that the EEOP and the analysis be available in Spanish at all points of distribution.

Communication

Finding 1

There is an uneasy tension between minorities and police. Both black and Latin men and women reported being harassed and intimidated by police. The department does operate a community services section responsible for educating police in community affairs, among other duties.

Recommendations

The Advisory Committee recommends to the county commission that the overall program and responsibilities of the community services section be reviewed by sources outside of the department that are experienced in interpersonal communication and human relations skills as related to police work. The committee recommends that the director, department of public safety, establish systematic, continuous, and compulsory inservice programs to train all officers in human relations skills.

Finding 2

Some problems between police and Latins exist because many police officers do not speak Spanish and many of the county residents do not speak English. Dade County police can be reimbursed for taking a college course in Spanish. The county itself offers a course in Spanish. The number of sworn personnel that has participated in the Spanish classes is insignificant in relation to the size of the force.

Recommendation

Provisions for police officers to be reimbursed for taking a college course in Spanish notwithstanding, the Advisory Committee recommends to the director that he institute: an increase in language instruction that will provide proficiency in conversational Spanish for all appropriate personnel; a systematic and continuous inservice training program to achieve this goal; and a provision that the ability to speak Spanish will be a factor in consideration for promotion.

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Internal Review

Finding 1

In the department of public safety over 800 complaints were received in 1974, and approximately 54 of those were sustained. Representatives of the multiracial, multiethnic community served by that police department alleged rude, unfair, and brutal treatment by police officers. Investigations of complaints are conducted by the staff of the internal review unit, and decisions are rendered by supervisors on the police force. Only when the accused officer appeals the decision is a hearing that includes the complainant held.

Despite some good procedures in the internal review process, e.g., a bilingual brochure that explains the process and the use of a private attorney to preside at hearings, the need to reform internal review procedures is still evident.

Recommendations

The Advisory Committee recommends to the director, department of public safety, that the investigations conducted by the internal review section staff and any subsequent hearings that result from appeal of the initial findings be open to the complainants and that the investigative records be available to the public. The President's Commission on Law Enforcement and Administration of Justice Task Force report, The Police (1967), recommended such action. And, with some restrictions, Florida Attorney General Robert B. Shevin voiced the same opinion in 1973 (see appendix E). Specific procedures from the President's Commission report follow and are recommended for adoption by the department of public safety.

- (1) The hearing should be open to the public.
- (2) The complainant and any witnesses he or she desires should be present.
- (3) Both the officer and the complainant should have subpoena powers, be represented by counsel,

and be able to see the investigation report if they so desire.

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(4) There should be opportunity for cross-examination by both the officer and the complainant.

(5) If desired by any party, a transcript should be made.

(6) The decision should be prompt---probably no more than a month, except in unusual cases---after a complaint is filed.

(7) The trial board should render an opinion containing findings of all important facts and explaining its reasoning.

(8) Once the decision on a complaint has been made, the complainant should be notified of the basis for it.

(9) The public should have access to the facts of the case and the nature of the decision.

Finding 2

Among 170 police officers against whom complaints were lodged and later investigated by the internal review section, 55 percent had previously had at least one complaint against them; 27 percent had three or more complaints against them.

Recommendation

The Advisory Committee recommends that the director of the department of public safety use the internal review process to identify those officers who repeatedly have complaints lodged against them. These persons should receive special counseling and training that will help them learn to deal with community residents in a positive and constructive manner despite the tensions inherent in police work. Depending on the merit and severity of the complaints, disciplinary action, reassignment to positions with minimal public contact, or other measures should be employed when police

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Notes to Chapter X

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2. Supra note 2, chapter IX.
3. Supra note 3, chapter IX.
4. Supra note 4, chapter IX.
5. Supra note 5, chapter IX.
6. Supra note 6, chapter IX.
7. Supra note 7, chapter IX.

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XI. FINDINGS AND RECOMMENDATIONS, THE SOUTHEAST FLORIDA INSTITUTE OF CRIMINAL JUSTICE

Finding 1

The Southeast Florida Institute of Criminal Justice (police institute) training program is critical in the process of becoming a police officer. Officer candidates cannot become sworn officers in the Miami metropolitan area unless they graduate from the police institute. The content of course work has not been validated, nor has the level of student achievement related to job performance been evaluated.¹

Recommendation

The Advisory Committee recommends that, in cooperation with the local jurisdictions (city of Miami, Dade County, and its incorporated towns), the institute's chairpersons of law enforcement training proceed to validate the curriculum and evaluate the training program as related to on-the-job performance. Specialists in the field of police training programs should be sought to conduct such an evaluation.

Finding 2

Despite the vast differences in the racial and ethnic makeup of the many police departments whose officers are trained at the Southeast Florida Institute of Criminal Justice, the curriculum is the same for all officer candidates. Despite the fact that 33 percent of Dade County's residents speak Spanish, the study of conversational Spanish is not included in the curriculum. Less than 10 percent of the hours of study offered deal with "human skills" despite the numerous reports of disharmony between local communities and police forces. Numerous part-time instructors are on the faculty. Their frequent failure to appear at scheduled classes and the use of several different instructors to teach the same course adversely affect the quality of instruction.

Recommendations

The Advisory Committee recommends that the police institute design and adopt a curriculum which will

prepare officer candidates for the unique population which they will be sworn to serve and protect. The Committee recommends that courses in Spanish be compulsory for prospective officers who will serve communities with a Latin population and that basic communications skills be required of all.

The Florida Advisory Committee further recommends that the number of hours of training in human skills be increased so that officers may cultivate and develop the sensitivity needed to deal with the problems of residents in the multiracial, multiethnic urban communities of the Miami-Dade County area.

Finally, the Advisory Committee recommends that the institute coordinate and supervise the part-time instructors so that proper training for police officer candidates is ensured.²

Finding 3

There were no records available from the Southeast Florida Institute of Criminal Justice that reflected the race or sex of police candidates. Thorough evaluations of candidate performance for each race and sex could not, therefore, be made.

Recommendations

The Advisory Committee recommends to the director of the police institute that complete records of police candidates by race and sex be kept.³ The Advisory Committee further recommends that these records be utilized by the police institute to identify problems of minorities and women in so that corrective measures may be taken to facilitate their entry into police service.

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Notes to Chapter XI

1. Allen Shoaff, in his capacity as chairperson of law enforcement training at the institute of criminal justice, stated, "This is a true statement and the Police Standards and Training Commission, which certifies all training centers in Florida, is aware of the problem and is presently working on funding a specific project to satisfy this discrepancy", Shoaff Letter, supra note 2, chapter V.

2. "This fact is...the law enforcement agencies desire this type of structure (part-time instructors) and have since this testimony almost totally eliminated the specific problem" [i.e., lack of coordination]." Shoaff Letter, supra note 2, chapter V.

3. "This information is now being mentioned [kept] for every Basic Law Enforcement Class." Shoaff Letter, supra note 2, chapter V.

APPENDIX A
 CITY OF MIAMI POLICE
 SWORN PERSONNEL BY ORGANIZATIONAL ASSIGNMENT
 Month of April, 1975

A-1

	<u>White</u>		<u>Black</u>		<u>Spanish</u>		<u>Total</u>
	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	
Chief's Office:	2						2
Strategic Planning/Inspection	3						3
Outreach Grant				1	1		2
Public Information Office	2		1				3
Special Inv. Section:							
Staff	2						2
Narcotics/Vice	10	3	1	1	2		17
D.A.L.E. Detail	1				1		2
Strategic Information Unit	6		1	1	3		11
Organized Crime Fighting Team							-
Internal Security Section:							
Staff	8		1				9
Operations Division:							
Staff	2						2
Oper. Analysis Research	2						2
Equipment and Transportation	1						1
Court Liaison	6	1					7
Community Relations Section:							
Staff	1						1
Community Interaction			2		1		3
Crime Prevention Detail	1						1
Youth Development Unit							-
Juv./Missing Persons Detail	5	2	2		1		10
Page 1 Total	52	6	8	3	9		78

SWORN PERSONNEL BY ORGANIZATIONAL ASSIGNMENT
 Month of April, 1975

	<u>White</u>		<u>Black</u>		<u>Spanish</u>		<u>Total</u>
	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	
School Resource Detail	0	2	7	1	1		17
Criminal Inv. Section:							
Staff	0						3
Administration Unit	0						2
Criminal Information Center	0	1			1		6
24 Hour Desk							-
Crimes Against Property	0				1		9
Residence Burglary	0		3				7
Commercial Crimes							7
Fraud/Forgery	0						5
Auto Theft	0						5
Non-Residence Burglary	0		1				8
Larceny	0						3
Crimes Against Pers/Tact. Unit	0	1			1		5
Homicide	0	2	1		3		16
Robbery	0		5		1		18
Tactical Squad Grant	0		3		3		26
Traffic Section:							
Staff	0		1				2
Administration							-
Point Control	0		1	1			22
Enforcement	0		2		1		25
Page 2 Total	0		24	2	12		185

Taxi-Cab Det
 Accident Inves
 Patrol Section:
 Staff
 Special Patrol
 K-9 Detail
 3 Wheeler Det
 Foot Patrol
 Mounted Deta:
 Platoon A
 Platoon B
 Platoon C
 Public Service
 Administration Div
 Staff
 Logistics and S
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 Management Grou
 Inform. Services S
 Staff
 Records
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SWORN PERSONNEL BY ORGANIZATIONAL ASSIGNMENT
Month of April, 1975

Spanish		Total
M	F	
1		17
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		7
		7
		5
		5
		8
		3
		5
		16
		18
		26
		2
		-
		28
		26
		185

	White		Black		Spanish		Total
	M	F	M	F	M	F	
Taxi-Cab Detail	2						2
Accident Investigation Unit	19	1			4		24
Patrol Section:							
Staff	4						4
Special Patrol Unit	6						6
K-9 Detail	21		3		2		26
3 Wheeler Detail	24				2		26
Foot Patrol Detail	10	1	2		3		16
Mounted Detail	1						1
Platoon A	71	1	12	2	11		97
Platoon B	82	2	5	1	17		107
Platoon C	71	1	12		12		96
Public Service Aide	3		1				4
Administration Division:							
Staff	1						1
Logistics and Security Group	1						1
Logistics Detail	1						1
Security Detail	1						1
Management Group	1						1
Inform. Services Section:							
Staff	3						3
Records							-
Pris/Rept. Process Detail	6	1	1				8
Page 3 Total	328	7	36	3	51		425

CIVILIAN PERSONNEL DISTRIBUTION BY JOB CLASSIFICATION
 Month of April, 1975

	White		Black		Oriental		Total
	M	F	M	F	M	F	
Communications	13	4	1		1		19
Support Services Section:							
Staff	2						2
Building Maintenance	1						1
Personnel/Training Section:							
Staff	2						2
Training	31	4	6	2	17	1	62
Personnel	5		1				6
Admin. Services Section:							
Staff	1						1
Directives and Correspondence	2						2
Federal Grant Coord.	1						1
Page 4 Total	58	8	8	2	18	1	96
Page 3 Total	328	7	36	3	51		425
Page 2 Total	141	7	24	2	12		186
Page 1 Total	52	6	8	3	9		78
Grand Total	579	28	76	10	90	1	785

Director's Office
 Internal Relations
 Community Services
 Organized Crime
 Strategic Planning
 Tactical Operations
 Vice Investigation
 Narcotics
 Court Services
 Court and Welfare
 Criminal Justice
 Court Services
 Civil Process
 License and
 Administrative
 Management and
 Training Bureau
 Information Systems
 Dade County
 1974

APPENDIX B**
 DADE COUNTY DEPARTMENT OF PUBLIC SAFETY
 SWORN PERSONNEL BY ORGANIZATIONAL ASSIGNMENT
 June 1973

	oriental	Total
M		
	19	
	2	
	1	
	2	
1	62	
	6	
	1	
	2	
	1	
1	96	
	425	
	186	
	78	
1	785	

	WHITE		BLACK		LATIN		TOTAL
	M	F	M	F	M	F	
<u>Director's Office</u>	2						2
Internal Review Section	7		2				9
Community Service Section	10	2	5	2	1		20
Organized Crime Bureau	1						1
Strategic Investigation	12						12
Tactical Investigation	17	2			4		23
Vice Investigation	17	1			1		19
Narcotics Investigation	17	1	1	1	1		21
Total	83	6	8	3	7		107
<u>Court Services Division</u>	1						1
Court and Warrant Bureau							
Criminal Warrants Section	59	1	7		2		69
Court Services Section	10						10
Civil Process Bureau	22						22
License and Permit Bureau	6	1					7
Total	98	2	7		2		109
<u>Administrative Division</u>	2						2
Management Analysis Bureau	2						2
Training Bureau	16	1			1		18
Information Systems Bureau	7				1		8
Total	27	1			2		30

** Dade County Department of Public Safety, Affirmative Action Plan, June 30, 1974, pp. 4 A-N

	WHITE		BLACK		B-2 LATIN		TOTAL
	M	F	M	F	M	F	
	Police Division	1					
Administrative Section	2						2
Uniform Bureau	1						1
Uniform Patrol	469	15	24	4	19	1*	532
General Investigation	78	5	2		6		91
Safe Streets	16	1	3	1	5		26
Vice, Intelligence, Narcotics	20	1	2	1			24
Motorcycle Patrol	15						15
Drunkometer	7	1	1				9
Protective Service	5	1					6
Education Leave	1						1
Investigation and Spe- cial Enforcement Sect.							**
Traffic Investigation	10				2		12
Marine Patrol	30						30
Underwater Recovery	1						1
Aviation	7						7
Detective Bureau	1						1
Homicide	30		1		1		32
Robbery	23		1		1		25
General Headquarters	17	1					18
Security Services	2						2
Operations	3						3
Total	739	25	34	6	34	1*	839

*1 "other" male.

**Under the authority of commander of Uniform Bureau.

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	<u>WHITE</u>		<u>BLACK</u>		<u>LATIN</u>		<u>TOTAL</u>
	M	F	M	F	M	F	
<u>Central Services Division</u>	1						1
Crime Lab Bureau	7	1			1		9
Communications Bureau							
Command Center	9	2					11
Maintenance/Engineering	1						1
Total	18	3			1		22
Total Sworn Force	965	37	49	9	46	1*	1,107

*1 "other" male.

CITY MANAGER-MIAMI

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF
FLORIDA

'73 OCT 16 AM 8:44

CASE NO. 71-1837-Civ-CA

FRANKLIN C. COHEN, et al.,)
)
Plaintiffs,)
)
)
)
CITY OF MIAMI, et al.,)
)
Defendants.)

NOTICE TO THE CLASS OF PROPOSED
SETTLEMENT

FILED
SEP 14 1973
JOSEPH I. BOGART CLERK, U. S. DIST. CT. SOUTHERN DIST. OF FLA. FORT LAUDERDALE, FLA.

I

You are hereby notified that the parties in this action have entered into a partial final settlement and that this settlement was approved by this Court on June 4, 1973. Terms of this partial final settlement provide as follows:

WHEREAS, Franklin Cohen and other black City of Miami policemen brought a class action against the City of Miami alleging discrimination by the City of Miami in recruitment, pay, promotion, training, and work assignments of black police officers in the City of Miami Police Department;

WHEREAS, the City of Miami has the policy of prohibiting discrimination in employment practices in the City of Miami; and

WHEREAS, the City of Miami desires to achieve a fair and amicable resolution of the case brought by the City of Miami black policemen; and

WHEREAS, the United States District Court has stated that it will enter a Partial Final Order in this case with the consent of the City of Miami; and

WHEREAS, the City of Miami agrees to the terms of the proposed Partial Final Order although denying that it has in any way discriminated

against any police applicant or police officer because of race, color, creed or ethnic background;

WHEREAS, by agreeing to the entry of the proposed Partial Final Order by the Court, the City of Miami does not waive any of its denials or defenses heretofore presented by its pleadings in the case;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The City of Miami agrees to the entry of a Partial Final Order in the United States District Court case Franklin Cohen, et al. v. City of Miami, et al., #71-1887, the terms of which are as follows:

PARTIAL FINAL ORDER

The Court enters the following Partial Final Order in the above entitled cause, which will be applicable to the Defendant, CITY OF MIAMI, hereinafter referred to as the City, its officers, agents, and employees and all other persons acting in concert or participation with them.

AGREEMENT

1. The Court makes no finding of fact concerning the issues in this controversy which have been decided by this Partial Final Order.
 2. The City shall, within a reasonable time, but not more than twelve (12) months from the date of the final determination of this case appoint an independent organization;
 - (a) to prepare entrance and promotional examinations for the City Police Department,
 - (b) to monitor the giving of these examinations,
 - (c) to prepare a method for scoring the examinations which includes giving weight to seniority, and
 - (d) to score these examinations.
- All such examinations shall be designed to measure ability to perform the

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job being tested for and, in addition, shall be so designed to have safeguards against any racial, cultural or ethnic biases. The independent organization shall be hired by the Miami City Commission. The City Commission, prior to hiring the independent organization, shall conduct a public hearing concerning the qualifications of the independent organization. The organization employed by the City shall be professionally competent to carry out the intent and purposes contained in this decree. The Plaintiffs reserve the right to object to the Defendants' selection of an agency where it is determined by Plaintiffs that the agency is unable to construct and administer tests impartially as evidenced by that agency's history, personnel, and methods. Whenever such objection is raised, the Court shall be the final arbiter.

3. All examination criteria used for screening applicants for entrance into the police force or for promotion shall be determined by the independent organization for the Civil Service Board to maintain an eligibility and promotion register. The ranking of persons eligible for promotion shall be determined by the independent organization based on the application of all criteria to be used. The independent organization may use criteria other than written criteria including job experience and oral examination as long as such criteria measure the person for the job for which he is being tested, and have safeguards to prevent any racial, cultural or ethnic bias.

4. The independent agency will continue to validate all entrance examinations but will not be required to administer the examinations or score them after a period of three (3) years from the date the examinations are first given. The agency will continue to validate all promotional examinations but will not be required to administer the examinations or score them after a period of five (5) years from the date the examinations are first given.

5. The promotional registers listing those who passed the promotional

examinations as prepared by the independent organization shall be valid for one (1) year and cannot be extended.

6. The City recognizes that no black officer has served in any non-classified policymaking position as of this time. Therefore, within eighteen (18) months of the date of the Final Determination of this case there shall be appointed, according to the Charter and Ordinances of the City of Miami, a black officer from among its ranks to an unclassified policymaking position within the City Police Department.

7. The City shall contact the Dade County Medical Association for assistance in establishing new medical standards for City Policemen; all police applicants will take an entrance physical examination; all policemen shall take an annual physical examination; no waivers on medical standards for initial hiring will be allowed after establishment of new medical standards. The entrance medical examination will be given by the city physician; if an applicant is dissatisfied with the results of the examination he may go to his own physician; if such physician applies the City's medical standards, his opinion and the city physician's opinion will be reviewed by a panel of three (3) independent physicians, as agreed upon by the parties, and that decision will be final. The physical examination shall be considered in promoting police officers and the weights assigned to the physical examination shall be determined by the independent organization.

8. The City shall maintain as public records the name, address and race of all applicants for the City Police Department, together with records indicating whether the applicants are hired, the name, address and race of all persons taking entrance or promotional examinations and results. Copies of all validation studies conducted by the independent organization and other relevant documents shall be made available to Plaintiffs by and through their attorneys.

9. The City of Miami shall recruit and hire more black police officers

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for the City of Miami Police Department. The recruitment and hiring of black officers shall continue until their representation in the department approximates the percentage representation in the City of Miami community. Such representation is expected to be attained within the five (5) year court jurisdiction of this order, assuming this will not require the City to lower its standards for the recruitment of police officers. The City of Miami shall also hire persons from other minority groups for the City of Miami Police Department in the same manner that the City hires black officers.

10. No acts of reprisal shall be taken against those black officers instrumental in the bringing and prosecution of this case.

11. The grievance procedure outlined in an administrative directive from M.L. Reese to All City Employees dated March 22, 1961, applies to grievances concerning disciplinary matters within the City of Miami Police Department. This remedy shall be in addition to what other remedies are available to police officers.

12. The City Manager of the City shall have the responsibility for the implementation of all the provisions of this Consent Decree.

13. This Partial Final Order disposes of all the issues between the parties except the issue of Plaintiffs' claims for promotions and back pay incident thereto. Defendants are not precluded by this Partial Final Judgment from raising the defense of laches or any other appropriate defense.

14. Nothing contained in this Partial Final Order shall be construed in any way as an admission on the part of any of the Defendants.

15. Plaintiffs' claims for back pay incident to promotions shall be limited to the period December 14, 1969 through December 14, 1971.

16. This Court shall direct that notice be given to each of the Plaintiffs advising them of their opportunity to have their claim for promotions and back pay incident thereto to be litigated. The Plaintiffs shall have twenty (20) days from the date of such notice to file with the Court

a notice that they wish to litigate their claims for promotions and back pay incident thereto. The claims of those Plaintiffs who fail to file such notice within the 20 day period shall be barred.

The Court retains jurisdiction of this action for the purpose of enforcing the terms of this decree and for the purpose of adding any defendant whose presence in court may be necessary for it to effectuate such enforcement. After five (5) years from the date of this decree, the City may move for its dissolution and unless the Plaintiffs show good cause to the contrary, this decree shall be dissolved at that time.

II.

According to the Partial Final Order entered into between the parties, "Plaintiffs' claims for back pay incident to promotions shall be limited to the period December 14, 1969 through December 14, 1971". Twenty days from the date of this notice, if you wish to contest a claim for promotions or back pay on account of race, you must file with the Clerk of the District Court, a notice stating that you wish to litigate your claims for promotions and back pay incident thereto. If you fail to file your claim within twenty (20) days of the date of this notice, your claim will be forever barred. You must file your claim with the Clerk of the Southern District Court, P.O. Box 669, Miami, Florida.

III

The Partial Final Order entered in this case referred to in I of this order will become final on October 15, 1973, unless objections are filed with this court on or before the aforesaid date. If anyone objects to any of the provisions in this Partial Final Order contained in Part I above, they must file their objections in writing with the Clerk of the Southern District Court, P.O. Box 669, Miami, Florida, no later than October 10 1973.

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If any objections are filed pursuant to III above, this court shall hold a hearing as soon as is practicable to rule on any of the aforesaid objections.

V

This order shall be mailed by the Plaintiffs to all black police officers who were employed by the City of Miami Police Department on December 13, 1971, which is the date this lawsuit was filed. In addition, this order shall be published in toto in the Miami Herald within ~~five~~ ^{five (5) days} days after the date of entry of this order.

DONE AND ORDERED at Miami, Dade County, Florida, this 14th day of Sept., 1973.


NORMAN C. ROETTER, JUDGE
UNITED STATES DISTRICT COURT

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APPENDIX D

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI, FLA.

UNITED STATES OF AMERICA,
Plaintiff,
v.
THE CITY OF MIAMI, et al.
Defendants.

CIVIL ACTION
NO. 75-3096-CW-Jc
CONSENT DECREE

The plaintiff United States of America has filed its complaint in this action against the City of Miami alleging that the defendants are engaged in a pattern and practice of discrimination in employment on the basis of race, sex and national origin, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq., as amended by the Equal Employment Opportunity Act of 1972 (Pub. L. 92-261, March 24, 1972); the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. §3766, as amended, and the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. §1221 et seq.

The Court has jurisdiction over the parties and the subject matter of this action.

The parties have waived hearing and the entry of findings of fact and conclusions of law on all issues covered by this Consent Decree, and have agreed to the entry of this decree which shall not constitute an adjudication or an admission by any of the defendants of any violation of law.

Certified to be true and correct
2/13/76

The plaintiff recognizes the adoption by the City Commission of the City of Miami of Resolutions No. 75-636 and 75-958 and Motion No. 75-727 as evidence of good faith efforts by the City of Miami to take affirmative action to increase minority and female participation throughout the City's work force.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. The defendant City of Miami, its officials, agents, employees, and all persons in active concert or participation with them in the performance of City functions (hereinafter collectively referred to as the City) are permanently enjoined and restrained from engaging in any act or practice which has the purpose or effect of unlawfully discriminating against any employee of, or any applicant or potential applicant for employment with, the City of Miami because of such individual's race, color, sex or national origin. Specifically, the City shall not fail or refuse to hire; promote, upgrade, train or assign any individual, discharge any individual or otherwise discriminate against any individual as an employee or applicant for employment with respect to compensation, terms, conditions or privileges of employment because of race, color, sex or national origin.

In no event shall the City be required to hire unnecessary personnel, to hire, transfer or promote a person who is not qualified, or to hire transfer or promote a less qualified person, in preference to a better qualified person, consistent with the provisions of this decree.

2. Recruitment

- a. The City shall continue to develop and

reassess its present affirmative recruitment program designed to inform blacks, Latins and women of job opportunities with the City, for the purpose of securing sufficient qualified applicants to enable the City to meet the hiring goals set forth herein. The recruitment program shall include maintaining contacts with area high schools, technical and vocational schools, colleges, and organizations which have traditionally expressed an interest in providing minority and female applicants or which indicate such interest in the future, and informing them of employment opportunities for City residents. In addition, where appropriate, advertising of employment opportunities shall be placed in radio stations and other mass media primarily directed to black, Latin and female audiences for the purpose of emphasizing to minorities and women the availability of employment positions. It is understood that the present recruiting area is the city limits of the City of Miami, and such schools, organizations and media utilized shall be consistent with this policy.

In the event it is determined by the City (by its Civil Service Board) that recruiting solely within the City of Miami fails to produce sufficient qualified applicants or is not productive of results as envisioned in this decree, the recruiting area may be enlarged to include Dade County. In the event the recruiting area is enlarged, persons on civil service registers who do not reside in the City of Miami will be considered for employment only after there are no City residents remaining on the register.

b. Police Department. The City shall operate the Law Enforcement Community Outreach and Career Program (the Tri-Cultural Program) as long as federal grant funds continue to be made available for that purpose. The City will continue to make applications for grant funds for the Tri-Cultural Program. In the event such federal funds are discontinued the City shall develop a police officer recruiting program of a similar nature and shall submit it to the plaintiff for approval prior to its commencement, provided that approval will be assumed if no reply is received within 30 days.

c. Fire Department. The City shall continue to pursue an active program to recruit blacks, Latins, and women who meet the requirements to become firefighters. Workers in City departments shall be included in the recruiting program.

In such recruiting program the City may continue to cooperate with the International Association of Firefighters Labor Recruitment Program, and Miami Firefighters Association No. 587, if such organizations exhibit a continued willingness to engage in such cooperation.

The City, through the International Association of Firefighters Labor Recruitment Program, shall also provide assistance to applicants to prepare for both written and physical tests and for oral interviews, as well as orientation to assist applicants in the Fire College training program required for entrance of firefighters upon employment.

The City shall provide sufficient information on test content at least three months in advance of the

expected examination date to enable such organizations to develop and implement an adequate training program.

The City understands that this program will supplement the normal selection process, for the period of this Decree. The City shall seek to select 30% of new appointments from among those applicants who participated in the minority recruitment and training program, if sufficient qualified applicants are obtained by this means. This paragraph is to be consistent with those goals established for the fire department in paragraph 5 of this decree.

In the event the International Association of Firefighters recruitment program is discontinued and the Firefighters Association No. 587 is no longer able or willing to cooperate in the recruitment program for the Fire Department, the City shall develop a similar firefighter recruitment program and shall submit it to the plaintiff with the next report required under this decree.

3. Selection Procedures

Except as otherwise provided in this decree, the City shall consider applications for employment from any person who meets the current criteria for any given position, without regard to such person's race, color, sex or national origin, provided, however, that no standards shall be applied to exclude blacks, Latins and women which are not also applied to disqualify white Anglo males. Specifically:

(a) Testing Requirements

The City shall not use any written examination for employment or promotion

which has an adverse impact on blacks, Latins or women unless it can be shown to be predictive of successful job performance, or can otherwise be shown to be job related, in accordance with standards established by the Equal Employment Opportunity Commission in its Guidelines on Employee Selection Procedures, 29 CFR, §1607 et seq., except that:

- (1) The City may continue to use such tests during the time they are being validated in accordance with the EEOC Guidelines, and the use of such tests will not be considered a defense against failure to meet the goals set forth in paragraph 5 below.
- (2) The City may continue to use skill tests of actual job content (for example typing and filing).
- (3) The City shall continue to provide exams in Spanish for positions which do not require proficiency in English.
- (4) Nothing in this paragraph shall prevent the administration of tests on a research basis during the term of this decree, provided the results of such tests are not used in any manner in hiring, promotion or transfer decisions or in the evaluation of personnel, and the scores and/or relative performance of the persons tested are not made known to any individuals

other than those directly involved in the analysis of the test.

(b) Education Requirements

The City shall continue to review job descriptions for the purpose of evaluating the need for a high school diploma or equivalency certificate, or an associate or bachelor's degree, as a general qualification for employment. The City shall discontinue the use of an education requirement for any position for which such a degree or diploma is unnecessary and where the continued use of such a standard will have the effect of disqualifying blacks, Latins or women at higher rates than white Anglo males. The results of such review shall be submitted to counsel for plaintiff along with the first report required under this decree.

(c) Background Investigation

The background investigation shall not include, nor shall any black, Latin or woman be rejected for employment on the basis of, any inquiry which is not routinely made about white Anglo males.

(d) Personal (Pre-Employment) Interview

No personal (pre-employment) interview (including police oral review board) conducted with respect to women, blacks and Latins shall include, nor shall any woman, black or Latin be rejected for employment on the basis of, any inquiry which is not routinely made of white Anglo males.

(e) Medical Examination

The medical or physical examination required of all applicants shall be the same for all applicants, in accordance with job requirements. Whenever an applicant believes s/he has been erroneously disqualified on the basis of the medical or physical examination, s/he shall be given the opportunity to secure an additional diagnosis, at the applicant's expense, from two independent physicians agreed upon between the City and the applicant. Should the physicians agree that the applicant is qualified according to regularly established physical standards, such evidence of fitness shall entitle the applicant to be considered for employment, in the absence of any other disqualifying factor.

(f) Physiological Qualifications

The physiological qualifications applied to any position shall not include any standards which operate disproportionately to exclude blacks, Latins or women and which have not been shown to be valid or otherwise demonstrably job-related in accordance with standards established by the Equal Employment Opportunity Commission in its Guidelines on Employee Selection Procedures, 29 CFR 1607 et seq. Any test of physical agility required to be completed in order to qualify for appointment to any City position, particularly to entry level positions in the Police and

Fire Departments, shall be administered to blacks, Latins and women in the same manner and under the same conditions as such tests are administered to white Anglo males.

(g) Police and Fire Departments

For purposes of the fire department the requirements of the state firefighters standards council shall apply. For purposes of the police department, the standards of the Police Standards and Training Commission of Florida shall apply. Should such state standards change or be modified in apparent disagreement with federal law, such changes shall be discussed by the parties.

(i) Criminal Record

Applicants for employment shall not be disqualified solely on the basis of an arrest record.

A record of criminal conviction may be used to reject an applicant for the position of police officer only if the applicant has been convicted of a felony or of a misdemeanor involving "moral turpitude" as the term is defined by law or if the applicant has been released or discharged under any other than honorable conditions from any of the armed forces of the United States.

An applicant for the position of fire fighter who has been convicted of a felony may be excluded from consideration for employment for a period of four years after expiration of sentence or final release by the parole and

probation commission unless the applicant, prior to the expiration of the four-year period, has received a full pardon or has had his/her civil rights restored.

The above provisions shall not be construed to prevent consideration of an arrest record with respect to the qualifications of an applicant where arrests have resulted in indictments or informations against an individual and where these indictments or informations are for felonies or misdemeanors involving moral turpitude even though there is no actual conviction.

(ii) Polygraph Examination

A polygraph examination (lie / detector test) may be administered only to applicants for positions requiring bonding and positions of trust or security. No questions shall be asked of black, Latin or female applicants which are not also regularly asked of white Anglo male applicants, and in no event shall an applicant be asked any questions which are not directly job-related. Under no circumstances shall the polygraph be used as the sole disqualifying factor in the screening of any applicant. The polygraph examination shall be administered to black, Latin and female applicants on the same terms and under the same conditions as those applied to white Anglo male applicants.

(iii) Minimum Age

Any applicant who shall have reached the age of 18 shall be eligible

for appointment as a firefighter or a public service aide.

(iv) Police Academy and Fire College

Training for entry level police officers and firefighters shall be administered to blacks, Latins and women on the same terms and under the same conditions as such training is administered to white Anglo males.

4. Assignment

a. The City shall not discriminate on the basis of race, sex or national origin in the assignment of employees in any department, except as may be consistent with standards established by the Equal Employment Opportunity Commission in its Guidelines on Discrimination Because of Sex, 29 CFR 1604 et seq., and its Guidelines on Discrimination Because of National Origin, 29 CFR 1606 et seq.; and by the Office of Revenue Sharing of the U.S. Department of Treasury in Section 51.54 of its Rules and Regulations, 31 CFR Part 51.

b. Sanitation Department

The City agrees to establish lines of progression within the Waste Collection Division of the Sanitation Department as follows:

A list of stand-by laborers will be established who will be offered employment on a daily basis to fill positions held by probationary or permanent waste collectors who are absent on their assigned work day.

As vacancies occur in the waste collectors classification, the department director shall select, with the assistance of the Sanitation Employees Association Committee, a replacement from the established list of stand-by laborers.

The City will train qualified waste collectors in the operator operations of the desired type of equipment utilized by waste collector I. Vacancies in the classification of waste collector operator I shall be filled by the selection of one of such trained personnel by the department director, with the assistance of the Sanitation Employees Association Committee.

The City shall offer training in the operation of the equipment utilized in the next higher classification and repeated throughout the equipment operations series.

The lines of progression following that shown above shall be:

WASTE COLLECTOR OPERATOR II
WASTE EQUIPMENT OPERATOR

The City further agrees that the classification of sanitation foreman and sanitation inspector I will be filled from existing permanent employees within the Sanitation Department in accordance with the goals established herein for blacks, Latins and women.

c. Police Department

The City shall evaluate its time in grade and performance evaluation requirements for promotion and for assignment to positions other than police officer and shall develop time in grade and performance evaluation standards which do not have the effect of selecting white Anglo males at a higher rate than blacks, Latins or women. Such selection process shall be consistent with the goals and timetables set forth in this decree for promotion. A review of this paragraph shall be made at any time upon the election of either party.

5. Goals

In order to eliminate the effects of past discriminatory practices against blacks, Latins and women, the City shall adopt and seek to achieve as its long term goal the participation at all levels throughout its work force of blacks, Latins and women approximating their respective proportions in the City's labor force, as determined by the United States Bureau of the Census. The purpose of this goal is to eliminate the substantial underrepresentation and uneven distribution of blacks, Latins and women throughout the City's work force.

(a) Hiring

In order to achieve this long term goal, subject to the availability of qualified applicants, the following recruitment and hiring goals shall be established for blacks, Latins and women (blacks and Latins are referred to collectively in this paragraph as minorities). It is understood that the goals are minimums, and that the City shall seek to fulfill the goals by hiring blacks, Latins and women generally in proportion to their representation in the labor force. Only full time regular civil service employees who have successfully completed their probationary period, or, in the case of the Police and Fire Departments, those who successfully complete the police academy or fire college, shall be counted in determining progress toward the goals. Progress toward these goals shall be measured on an annual basis.

(1) For each entry level position of police officer, public service aide, fire fighter and traditionally white Anglo male positions in the Departments of Finance and Building, the goal shall be 56%

minorities and women each year. For purposes of this subparagraph, traditionally white Anglo male positions shall include such positions as building inspector, zoning inspector and skilled trades.

(2) For each traditionally black entry level service and maintenance position in the Departments of Sanitation and Public Works, the goal shall be 35% other than black each year. For purposes of this subparagraph, traditionally black entry level service and maintenance positions shall include such positions as laborers and waste collectors.

(3) For each entry level skilled craft, technical and lower level administrative position throughout the City, the goal shall be 50% minorities and women each year. For purposes of this subparagraph, skilled craft positions shall include such positions as mechanic (including automotive, air condition and heavy equipment mechanic), carpenter, electrician, lineman, machinist, painter, pipefitter, plumber and welder; technical positions shall include such positions as engineering, identification and planning technicians; and lower level administrative positions shall include white collar non-technical positions such as administrative aid, clerk, secretary, keypunch operator.

(4) For each entry level paraprofessional position, 40% minorities. For purposes of this paragraph, paraprofessional shall include such positions as foreman, supervisor, computer programmer.

(5) For entry level professional positions, the goal shall be 30% minorities and women each year. For purposes of this paragraph, professional shall

include such positions as accountant, engineer, manager, architect, publicity writer.

(6) For entry level official and upper level administrative positions, the goal shall be 20% minorities and women each year.

(b) Promotion

Subject to the availability of qualified applicants, promotional goals shall be established for minorities, on a department basis, with each department having as its yearly goal, until the long term goal has been met for a period of one year, either parity with the Miami City workforce population statistics or the percentage of minorities currently employed in the department, whichever is smaller. Priority opportunity for promotion (as defined in paragraph 7(b) below) within a particular department shall be provided to qualified persons who have indicated a desire or interest in the promotion, transfer and assignment opportunities created by this decree. Each person responding to this request shall be promoted or transferred pursuant to the provisions of paragraph 7 below.

6. Affected Class

The term "affected class", as used in this decree, shall include the following:

(a) All incumbent black and Latin employees currently holding positions with the City who were initially assigned to traditionally black or Latin jobs.

(b) All incumbent women employees currently holding positions with the City who were initially assigned to traditionally female jobs.

(c) All blacks, Latins and women identified as having been discriminatorily denied employment opportunities (including promotion and terms and conditions of employment), or terminated since March 24, 1972.

7. Promotion and/or Transfer Pool

(a) The City shall compute the seniority of each member of the affected class interested in this provision based on the total seniority of that person with the City. The City shall maintain a list of people signing up under the provisions of this paragraph 7.

(b) A member of the affected class shall be given the initial opportunity to fill any vacancy in the City where the person is the senior applicant who meets, or could reasonably be expected to meet after an initial probationary period, the minimum qualifications for the position unless a applicant not a member of the affected class has demonstrably superior qualifications. This preference shall be exercised at the written election of the applicant. An affected class member using this preference who successfully completes the probationary period shall at that time be informed that s/he can remain in that position or return to his/her prior position.

(c) If no affected class member seeks or is entitled to a vacancy as provided in (b) above, the vacancy shall be filled pursuant to the procedures and goals for hiring set forth in this decree.

(d) All members of the affected class shall be notified of the provisions of this decree and specifically of the opportunity to transfer and/or be promoted

to other positions either within the same department or in other departments when such vacancies occur and notices to fill them are posted by the Civil Service Board. At least ten (10) days before any such vacancies are to be filled, notices of the vacancies shall be posted at convenient locations in each department or division where members of the affected class are employed. Unclassified positions are exempt from this requirement.

(e) No member of the affected class who makes a lateral or downward transfer for the purpose of enhancing promotional opportunities, shall be paid at a lower rate than the rate for the job from which she transferred, including any regular within grade increments s/he would have received had s/he remained on that job. A person utilizing rate retention pursuant to this paragraph who returns or is returned to her/his original job pursuant to subparagraph (b) above, may utilize the right to rate retention on a subsequent transfer, provided, however, that this right to rate retention may not be exercised on more than three occasions. The right to rate retention shall continue until a transferee has reached that level in the new department or line of progression where the rate of pay is equal to or higher than that in the previously held job classification. A transferee shall lose this privilege of rate retention if s/he refuses a promotion in the new line of progression or fails to bid on a higher rate job in the new department for which s/he is eligible.

(f) Rights of a member of the affected class under paragraph 7 are limited to (1) one successful promotion or transfer, or (2) three unsuccessful attempts to promote or transfer.

8. Specific Relief

The City shall provide a total of \$500,000 as the extent of its back pay liability under this decree. There shall be a maximum of \$100,000 appropriated each year for five (5) years, beginning with the City's fiscal year 1976-1977. Any back pay liability in excess of \$100,000 in a given year shall be paid out of the following year's fund, such excess liability to be given priority over claims arising in the subsequent year. Any portion of each year's fund not expended in that year shall be carried forward for use over the remainder of the five year period.

(a) Incumbent Employees. Each member of the affected class who is an incumbent employee, upon successful transfer or promotion pursuant to paragraph 7 above, shall receive from the City as back pay a sum equal to \$200 times the number of years of such person's seniority with the City (computed pursuant to paragraph 7(a)), but not to exceed \$2000.

(b) Nonincumbent Members of the Affected Class. (1) As soon as possible after entry of this decree, but in no event longer than six months, the plaintiff shall have access to and review the City's personnel records for the purpose of identifying nonincumbent members of the affected class. Within 30 days thereafter, the City shall give notice to such persons of the relief to which they may be entitled under this decree. The form of such notice shall be agreed upon between the City and the United States, and shall be incorporated by reference in this decree. Such notice shall explain the rights of members of the affected class.

establish a time limit of three months for notifying the City of such persons' intent to exercise their rights hereunder, notify such persons of the waiver requirement set forth in subparagraph (e) below, and inform them whom to contact.

(ii) Each member of the affected class who is determined to have been discriminatorily terminated since March 24, 1972, shall be awarded back pay on the basis of \$360 for each year (\$30 per month) of lost employment. Each such person shall be entitled to reinstatement, as vacancies occur, with seniority computed as if s/he had not been discriminatorily terminated.

(iii) Each member of the affected class who is determined to have been discriminatorily denied employment since March 24, 1972 shall be awarded back pay on the basis of \$360 per year (\$30 per month) of lost employment. Each such person shall be entitled to employment in the position for which s/he applied, as vacancies occur, with seniority computed as if s/he had not been discriminatorily rejected.

(c) Pension Benefits. Since questions related to employee retirement pension benefits are currently under consideration by the City of Miami, discussions related thereto shall be deferred for six months from the date of entry of this decree.

(d) Other Individuals. Certain persons identified in Paragraph 6(c) of this decree have charges currently pending before the EEOC which were

filed before the entry of this decree and which allege employment discrimination by the City of Miami.

The Plaintiff, UNITED STATES OF AMERICA, and Defendant, THE CITY OF MIAMI, FLORIDA, will make a good faith effort to resolve the aforementioned charges within the framework of this decree, utilizing the time limits set forth in subparagraph (b) above. Any agreements for monetary relief will come within the framework of this decree and the monetary limitations expressed in this Paragraph 8.

In situations where agreement is reached concerning entitlement to specific relief for any of the aforementioned persons, the names of the persons and the specific relief agreed upon for each shall be submitted to the court within the appropriate period.

In cases of disagreement between the UNITED STATES OF AMERICA and THE CITY OF MIAMI concerning resolution of the aforesaid charges, either party may apply to the court for a resolution of the matter at issue.

Nothing in this paragraph will be construed as limiting the rights of any individual as provided by Section 706 of Title VII, 42 US Code, Section 2000e-5.

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(e) Each person entitled pursuant to sub-paragraphs (a), (b) and (d) above to receive back pay or other specific relief pursuant to this decree shall be offered such back pay conditioned upon execution of an agreement releasing the City from further liability for relief based on matters covered by this decree occurring before its effective date. No back pay pursuant to this decree shall be awarded for promotions or transfers made more than five years after the effective date of this decree or awarded after the exhaustion of the total back pay liability. No person shall be entitled to receive back pay more than once.

9. Record Keeping

The City shall retain during the period of this decree necessary records to support the implementation of this decree. These records shall be made available to the Department of Justice for inspection and copying upon written request.

The City will maintain the following records:

(a) A list of all organizations and schools which are contacted pursuant to paragraph 2, showing the date that any notice of job opportunity was mailed to them, the position and number of positions to be filled from that notice and the date through which applications could be received for the job which was advertised, including a summary or compilation of all other recruitment efforts aimed at minorities and women, together with the date of said efforts and the names and positions of defendant's employee who made the contact and the nature of the contact.

(b) All written applications and related records for all persons seeking employment with the City, including applications for transfer within or among departments, for a period of three years, and shall include

on such applications identifications of the applicant by race, sex and national origin.

(c) Pass/fail results by race, national origin and sex for all selection standards administered by the City, except those excluded in paragraph 3(a) of this Decree.

(d) All written communications between the City and applicants for both initial entrance, transfer and promotion.

(e) Sufficient records on part-time, temporary and seasonal employee to assure accurate and complete reports for these employees as required in paragraph 10(h).

10. Reporting

Within ninety (90) days after the entry of the Decree, and following June 30 and December 31 of each subsequent year during the term of this Decree, the City shall report to the Attorney General [to the attention of Chief, Employment Section, Department of Justice, Washington, D.C. 20530 and of the Compliance Manager, Compliance Division, Office of Revenue Sharing, Department of the Treasury, Washington, D.C. 20226] the following inform:

(a) A summary showing the total number of employees by race, sex and national origin in each job classification of the City.

(b) The list of members of the promotion pool by department required by paragraph 7(a) of this decree.

(c) A report showing the positions for which persons in the affected class have applied,

name of the person, the dates of such applications and whether or not such applications were successful. The report should also show any positions which the persons in the affected class have been offered but which they refused, showing both the job offered and the dates thereof.

(d) A list of all newly hired employees indicating the name, race, sex, national origin and job classification of each since the last report was filed.

(e) A list of all person, by job classification, to whom promotion has been offered under paragraph 7(b) of this Decree and whether or not that promotion has been accepted.

(f) A list of all promotions, name, race, sex, national origin and date of hire of the employee promoted and the date of the promotion.

(g) A breakdown of the applicant flow of the City by race, sex and national origin which indicates the number of applicants by race, sex and national origin hired, rejected and pending for each job classification. A person is considered an applicant for this purpose upon filing a formal application when a job is posted and upon meeting the minimum qualifications for the position.

(h) Pass/fail results by race, national origin and sex for all selection standards administered by the City, except those excluded in paragraph 3(a) of this decree.

(i) A list of part-time employees, to include race, sex, national origin and job classification and term of employment.

11. EEO Officer

Copies of this Decree shall be provided by the Plaintiff to be posted in conspicuous locations within each Department and/or operational unit of City Department. Further, the City shall appoint an EEO officer for the City whose duties shall include:

- (a) To advise black, Latin and female employees of the terms of this Decree.
- (b) To receive and investigate complaints of race, sex and national origin discrimination; and to conciliate when appropriate; and
- (c) To maintain a complete record of all actions taken in pursuit of the duties outlined above, including all correspondence directed to the defendant and/or any investigatory files. The individual appointed as EEO officer shall have his office hours and location posted conspicuously beside the Consent Decree.

12. Definitions. For purposes of this decree, the following terms shall have the meanings set forth below.

- a. Assignment shall include the initial appointment of an employee to a particular department or job classification and the duties and responsibilities of an employee in a job classification.
- b. Black shall include males only.

c. Effective date shall mean the date of entry of this decree.

d. Honorable conditions shall mean honorable and general discharges.

e. Latin shall mean males of Cuban, Puerto Rican, Mexican or other Latin American origin.

f. Promotion shall mean the elevation of an employee to the next job classification in a given job ladder or line of progression.

g. Transfer shall mean the lateral movement of an employee from one line of progression to another, either within one department or among departments.

h. Women shall include all females, regardless of race or national origin.

13. Jurisdiction

The Court retains jurisdiction of this action for such further orders as may be appropriate. At any time after five years subsequent to the date of the entry of this Consent Order, the City may move the Court upon 45 days notice to the plaintiff for dissolution of this decree, and in considering whether the decree should be dissolved, the Court will take into account whether the City has substantially complied with this decree and whether the basic objectives of the decree have been achieved.

Dated FEB 18 1976

John Easton
UNITED STATES DISTRICT JUDGE

By Consent:

Willie G. Amerson
Scott Robert
On behalf of the United States

John S. Smith
On behalf of the City of Miami



ROBERT L. SHEVIN
ATTORNEY GENERAL

STATE OF FLORIDA
DEPARTMENT OF LEGAL AFFAIRS
OFFICE OF THE ATTORNEY GENERAL
THE CAPITOL
TALLAHASSEE, FLORIDA 32304

May 17, 1973

073-166

Honorable T. Edward Austin
General Counsel
City of Jacksonville
3100 City hall
Jacksonville, Florida 32202

Attention: Ralph W. Nimmons, Jr.
Assistant General Counsel

Re: PUBLIC RECORDS
§§119.01, 119.011, 119.07 (1)(2), F. S.

Dear Mr. Austin:

This is in response to your request for my opinion on substantially the following question:

Are the records of the "Internal Investigation Unit" of the Sheriff's Office public records within the purview of Sections 119.01, 119.011, and 119.07, Florida Statutes?

As you explained in your letter, the "Internal Investigation Unit" was organized by the Sheriff in 1965 for the purpose of investigating allegations of wrongdoing made against personnel of the Sheriff's Office. The Unit investigates claims of criminal misconduct as well as alleged violations of the rules and regulations of the department. The investigative files which are maintained on individuals who are the subject of such complaints are kept separate and apart from the Sheriff's personnel files which are considered and treated as public records.

The public records law requires that all records regardless of physical form or characteristics, of any unit of state, county or municipal government which are made or received pursuant to law or in the transaction of official business be open to a personal inspection of any citizen of Florida at all reasonable times. Sections 119.01, 119.011, 119.07(1), Florida Statutes. Section 119.07(2), Florida Statutes, provides:

"All public records which presently are deemed by law to be confidential or which are prohibited from being inspected by the public, whether provided by general or special acts of the legislature or which may hereafter be so provided, shall be exempt from the provisions of this section."

The question which must be answered is whether, and to what extent, the records of the Sheriff's Internal Investigation Unit are exempted from the requirements of the Public Records law.

In AGO 072-168 I recognized that there was a common law exception to the public records law in the case of "investigative police reports and records made in connection with an official police investigation of a suspected violation of the law, or otherwise relating to the detection, apprehension or prosecution of criminals" In that opinion I quoted AGO 057-157 to the effect that:

". . . a request made of a Sheriff to make an official investigation by any public official relative to the suspected violation of the law is a confidential matter, and all of the notes and records of the Sheriff's office as to suspect, leads, confidential information, tips, etc., are not public records, and if the Sheriff and his office force are going to do a competent job with respect to law enforcement, these records should not be divulged to anyone not actively engaged in the investigation of the case"

In AGO 072-168 I pointed out that all records of police agencies do not necessarily fall within the exception. I noted that:

"Such matters as record of arrests, the names of persons who have been arrested and copies of information and indictments

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which have been filed against individuals are of course public records as the ordinary business records of the office . . . are public records and are available to the public and the press if desired."

I also reaffirmed the holding of AGO 056-286 in which one of my predecessors in office concluded that an accident report made by the officer investigating the accident is not immune from inspection.

Thus, records of the "internal investigation unit" which involve an investigation of criminal activity would be confidential. However, to the extent that such records simply involve office or personnel matters not reasonably related to the investigation of a crime, the records are public records and must be made available for public inspection. See AGO 073-51 holding that files involving personnel matters of civil service employees are public records.

The federal "Freedom of Information Act," which serves the same basic purposes Chapter 119, also includes an exception in the case of "investigatory files compiled for law enforcement purposes." 5 U.S.C. §552(b)(7). In *Hawkes v. Internal Revenue Service* 467 F.2d 787, 795 (1972), the court discussed the scope of the exception:

"In many agencies, among them the Internal Revenue Service, much activity which at its inception is administrative in character may eventually lead to law enforcement proceedings. It was obviously not the purpose of the Information Act to exclude from compulsory disclosure all material which might eventually affect the law enforcement process. Rather, it would seem logical to assume that the intent of the limit . . . was to bar disclosure of information which, if known to the public, would significantly impede the law enforcement process.
[emphasis by court]

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"The exception for law enforcement material, . . . is, as suggested above, a very narrow one and is to be applied only where the sole effect of disclosure would be to enable violators to escape detection."

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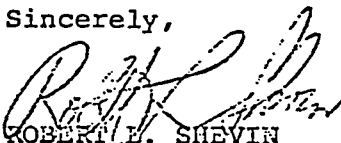
In the case of Florida public records law, as with the federal Freedom Information Act, the exception for police investigatory records "is a narrow one, over-extension of which is likely to thwart the overall goals of law enforcement as would its total disregard." Hawkes v. Internal Revenue Service, supra.

Your question is answered accordingly.

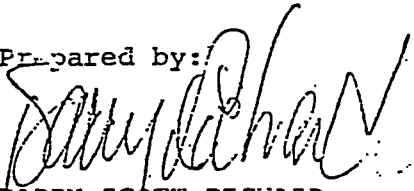
SUMMARY

Records of the "Internal Investigation Unit" of a Sheriff's office which involve the investigation of criminal matters are within an exception to the public records law and are confidential. However, records related solely to office or personnel matters within a police agency or other matters unrelated to the detection, apprehension and prosecution of crime are public records and must be made available for inspection by any citizen.

Sincerely,


ROBERT L. SHEVIN
Attorney General

Prepared by:


BARRY SCOTT RICHARD
Deputy Attorney General

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Robert L. Shevin
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Attorney General

Prepared by:

Barry Scott Richard
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