

The Administration of Justice in Pensacola and Escambia County

April 1981



A report of the Florida Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission, and the Commission will make public its reaction. In the meantime, the findings and recommendations of this report should not be attributed to the Commission but only to the Florida Advisory Committee.

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

ATTRIBUTION:

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. This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and Congress.

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LETTER OF TRANSMITTAL

Florida Advisory Committee
to the U.S. Commission on Civil Rights
April 1981

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Murray Saltzman

Louis Nuñez, *Staff Director*

Dear Commissioners:

The Florida Advisory Committee submits this report on the administration of justice in Pensacola and Escambia County as part of its responsibility to advise the Commission about civil rights problems within the State.

The complex issues surrounding the administration of justice, and especially police-community relations, have been the primary concern of the Advisory Committee since 1972. Reports on police-community relations in Tampa (1972), Jacksonville (1975), Miami and Dade County (1976) have been submitted to you. Our report on Pensacola and Escambia County substantiates the need to improve police-community relations, equal employment opportunity, revise local firearms policies and the State "fleeing felon law."

There is no formal means of communication between the community and either the Escambia County Sheriff's Department or the Pensacola Police Department. The limited involvement of the understaffed Human Relations Commission and the ad hoc services rendered by special crises-oriented committees are not adequate for achieving the goal of permanently healthy police-community relations.

The Advisory Committee found that minorities and women are both greatly underrepresented in the sworn forces of the Sheriff's and Police Departments. Some 33 percent of the city's residents are black; only 3 percent of the police officers are. The County Sheriff's Department is only 4.6 percent black while the SMSA is 20 percent black. The number of minorities on the sheriff's sworn force has declined since 1979. Hispanics compose over 1 percent of the Pensacola metro area residents, but no Hispanic serves in either law enforcement department.

The firearms policies of both law enforcement agencies have often been the focus of local controversy after shootings by police. Some revisions have been made in the Sheriff's Department policy in recent years and no fatal shootings have occurred in the past 3 years. The city policy is currently under study in the wake of a fatal shooting this year. The Advisory Committee recommends that both local agencies review their policies in light of the U.S. Commission on Civil Rights' July 1980 statement on police practices and revise them accordingly.

The Advisory Committee calls on the Governor of Florida, Robert Graham, to provide the leadership necessary to revise Florida's fleeing felon law and to ensure

its passage. The current law is broad in its protection of an officer's decision to use "any force which he reasonably believes to be necessary" in pursuing suspected felons. While the intent of the law may be that of defense for law officers accused of a criminal charge, its effect is to place law officers in the tenuous position of being both judge and jury when they pursue suspected felons.

The revision of the state law is vital not only to Pensacola, but to Miami, Tampa, Jacksonville, Orlando, and given its history of police-community difficulties—virtually the entire State.

The Advisory Committee calls upon the Commission to endorse the recommendations in this report. The Committee specifically asks that you urge the Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice and the Office of Revenue Sharing (ORS) of the U.S. Department of Treasury to conduct employment compliance reviews of both the Escambia County Sheriff's Department and the Pensacola Police Department. LEAA and ORS should be urged to exercise their full authority, including and withholding of funds, to assure that minorities and women receive equal employment opportunity. Sincerely,

TED NICHOLS
Chairperson

**THE FLORIDA ADVISORY COMMITTEE TO THE U.S.
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Caxton Doggett
Daytona Beach

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Tampa

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Judith A. Peterson
Dade City

Jane W. Robinson
Tallahassee

Teresa Saldise
Miami

Mayme Williams
Miami

June D. Littler
Gainesville

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The study was the principal staff assignment of Courtney Sicheloff, equal opportunity specialist. The report was written by Katie Harris, research specialist. Legal review was the responsibility of Clint Fried, regional attorney. Portia Raby, Joan Harper, and Emma Allen provided support throughout the study. All worked under the supervision of Bobby Doctor, Director, and Idalia Morales, Deputy Director, of the Southern Regional Office.

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Introduction

Relationships between minorities and police have been a concern of the Florida Advisory Committee to the U.S. Commission on Civil Rights since it studied police-community relations in Tampa in 1972.¹ In 1978, after making similar police-related studies in Jacksonville,² Miami and Dade County,³ the Advisory Committee launched a study in Pensacola which includes police-community relations.

Pensacola and Escambia County were chosen for the study because a number of racial incidents occurred between 1973 and 1980. Despite the relative calm recently, some community leaders still feel blacks are treated unfairly by police and the courts. In addition, the Advisory Committee wanted to study race and police-community relations in a less urban area of Florida: the Panhandle.

The judicial system's treatment of black and white persons charged with 3 types of felonies in 1978 was

¹ U.S., Florida Advisory Committee to the U.S. Commission on Civil Rights, *Police and Community Relations in Tampa*, 1972.

² U.S., Florida Advisory Committee to the U.S. Commission on Civil Rights, *Toward Police-Community Detente in Jacksonville*, 1975.

³ U.S., Florida Advisory Committee to the U.S. Commission on Civil Rights, *Policed by the White Male Minority*, 1976.

reviewed to determine if any disparate treatment based on race was evident. The felonies selected were: aggravated assault, aggravated battery and battery on a police officer. A statistical analysis of data by private consultants on the selected felonies failed to support a conclusion that disparate treatment was meted out based upon race.⁴

Patterns of employment within the police and sheriff's departments are reviewed. The relationship of minority employment and good police relations with minorities is explored.

Recommendations based on this Advisory Committee study, directed to both government and police officials and citizens, are found in Chapter 4.

The Florida Advisory Committee to the U.S. Commission on Civil Rights will assist and monitor the implementation of the recommendations.

⁴ Jacques, Jeffrey M., Ph.D., Project Director, MGT of American, Inc., "The Role of Race as a Factor in the Criminal Justice System of Escambia County, Florida" (Report to the Florida Advisory Committee to the U.S. Commission on Civil Rights, Jan. 1980).

Background on the Community

Pensacola is among the smaller cities of Florida with a substantial black population. Among the approximately 60,000 city residents in 1970, 33 percent were black and 1.8 percent Hispanic.¹ Escambia County, which includes Pensacola, had a 1970 population of approximately 205,000, with a 20 percent black population and 1.5 percent Hispanic. The estimated population for 1980 is 70,714 in the city and 240,300 in the county.² While no 1980 population projections for the black and Hispanic residents are available, it is reasonable to assume that any total increases would be small though the national trend of "white flight" from cities would likely result in a greater proportional increase of minorities to whites in the city.³

Government, including the military, and manufacturing industries are the hub of Pensacola's economy.⁴ The manufacturing of chemicals, paper and their allied products, account for most large employers. Monsanto, American Cyanamid, Reichhold, American Creosote and St. Regis are among them.⁵

Pensacola's low overall unemployment rate is credited to the large number of government employees. In 1977 the annual average unemployment rate for Pensacola was 4.7 percent as compared to a Florida average of 8.2 percent.⁶ In predominately

black neighborhoods, however, unemployment is much higher. A 1978 study by the Pensacola Community Action Program reported an 18.6 percent unemployment rate in an inner-city area which was over 95 percent black.⁷

The median family income of all residents versus that of blacks reflects the lower job status of blacks. The median family income for Pensacola in 1970 was \$8,319 (\$8,027 in Escambia County) while for black families it was \$4,523 (\$4,645 in the County).

Although 17 percent of all city families lived below the poverty level (\$3,745 for a family of four) in 1970, almost 40 percent of the black families were below the poverty level.⁸

The gap in income between whites and blacks in Pensacola is not unlike that seen nationwide. In 1971 the median family income for whites nationwide was \$10,672 compared with \$6,440 for blacks. By 1976, the gap had widened: median family income for whites was \$13,356, and for blacks was \$7,808.⁹ The national unemployment rate for blacks and other minorities in 1976 was 13.1 percent—almost double the 7 percent rate for white Americans.¹⁰ Data more

¹ U.S., Department of Commerce, Bureau of the Census, *1970 Census of Population, General Social and Economic Characteristics*, Florida, PC(1)-C11, pp. 260,310,335.

² City of Pensacola, City Planning Department, *Comprehensive Plan Information Package II* (November 1978), p. 28 (hereafter cited as *City Information*).

³ *Ibid.*, p. 32.

⁴ Florida, State Employment Service, Division of Employment Security, *Annual Planning Information Report, 1979, Pensacola SMSA and Okaloosa County* (May 1978), p. 2.

⁵ *City Information*, p. 34.

⁶ *Ibid.*, p. 37.

⁷ *Ibid.*, p. 38.

⁸ U.S., Department of Commerce, Bureau of the Census, *1970 Census of Population and Housing, Census Tracts, Pensacola, Fla.*, PHC(1)-157, pp. 16 and 24.

⁹ U.S., Department of Commerce, Bureau of the Census Current Population Reports, *Money, Income and Poverty Status of Families and Persons in the United States: 1978* (1979).

¹⁰ U.S., Commission on Civil Rights, *Statement on Affirmative Action for Equal Employment Opportunities* (1973), p. 2.

current than 1970 is not available for Pensacola and Escambia County.¹¹

The City of Pensacola is governed by a city council and mayor; all elected at large. The 10 member City Council had only one black member and no women in mid-1980. When the Council was filling a vacancy in March 1980, it was urged by black leaders to elect a minority or female. After 9 ballots a young white man was chosen.¹²

The 5-member County Commission has never had a minority representative. No women are members, although they have been previously. By contrast, the school board has included one black and 2 women among its 7 members. Black member Vernon McDaniel, first elected in 1979, was chosen by his fellow members as chair.¹³ Five members are elected from districts and 2 at-large.

The at-large elections of all three bodies have been challenged in Federal court. On July 10, 1978, Judge Winston Arnow ruled that single member district elections must be held at both the county¹⁴ and city level.¹⁵ Both of these cases have been consolidated and are under consideration by the Fifth Circuit Court of Appeals.

The Escambia-Pensacola Human Relations Commission established by the City Council and County Commission in 1974 is one agency which is particularly relevant to this study of race and police-community relations.

The fourteen commissioners are appointed by the two local governing bodies. Within its purpose to

“promote fair treatment and equal opportunity” for citizens the HRC is empowered to:

- Receive, initiate, investigate, seek to conciliate, hold hearings on, and pass upon complaints alleging discrimination on the grounds of race or color, religion, sex, national origin, age, or physical handicap; and make recommendations to the parties to eliminate any such discrimination.
- Hold hearings to determine the facts regarding instances of discrimination or intergroup tensions within Escambia County.
- Recommend methods to eliminate discrimination and intergroup tension and use its best effort to secure compliance with its recommendations.
- Promote equal opportunity in employment and work to eliminate any forms of discrimination as may occur in all phases of employment.
- Furnish technical assistance requested by persons to facilitate progress in human relations, and cooperate with individuals, state, local and other agencies, both private and public, including agencies of the Federal Government and other States.¹⁶

The HRC budget for fiscal year 1980 was reduced to \$25,000 from the preceding \$30,000 in fiscal 1979. No increase in funds are expected in the 1981 budget.¹⁷ One permanent employee, one part-time employee and 2 temporary employees paid by a CETA grant comprise the total staff.

¹¹ Jennifer Hodnit, Planner, Pensacola Planning Department, telephone interview, July 11, 1980.

¹² *Pensacola Journal*, March 14, 1980, p. 1A.

¹³ Hollice Williams, Pensacola City Council Member; Rosa Moore, Florida Advisory Committee Member and Vernon McDaniel, Escambia County School Board Member, interviews in Pensacola, March 14, 1980.

¹⁴ *McMillon v. Escambia County Florida, et al.*, No. PCA-77-0432 (N.D. Fla. July 10, 1978), *appeal docketed*, No. 80-5011 (5th Cir. January 7, 1980).

¹⁵ *Jenkins v. City of Pensacola, et al.*, No. PCA-77-0433 (N.D. Fla. July 10, 1978), *appeal docketed*, No. 79-1633 (5th Cir. Mar. 15, 1979).

¹⁶ Escambia County and Pensacola, “Human Relations Commission” brochure, no date.

¹⁷ Eugene Brown, Interim Director, Escambia County-Pensacola Community Relations Commission, telephone interview, June 30, 1980.

Racial Tensions and Police

Escambia County Sheriff's Department

Relations between black and white residents of Pensacola have often been strained and in particular police-minority community relations have been strained repeatedly since 1975. Black leaders of Pensacola believe that knowledge of the fatal shooting of a young black man by a white deputy sheriff in December 1974, the public outcry and the events which followed are fundamental to understanding the distrust some blacks have for local law officers and the judicial system.¹

After the young black man was shot and the deputy sheriff involved was exonerated of any wrongdoing, blacks marched in the streets and called for the deputy's dismissal due to the perceived miscarriage of justice. The demonstrations continued for 2 months.

At one point, according to the *St. Petersburg Times* and the *Miami Herald*, Escambia County Sheriff's Deputy Jim Edson who headed the riot control squad which policed the demonstrations made blatantly racist comments to news reporters. Deputy Edson said his squad was going to play a new game called Selma:

You grab club and hit a nigger. Now, I don't want you to think I'm a racist. I like black folks. In fact, I'd like to have two of them to put in my back yard for the dogs to play with. Niggers are better than milkbones.²

¹ Interviews in Pensacola, Fla., August 12, 1978.

² *St. Petersburg Times*, March 2, 1975, p. 1B and *Miami Herald*, June 20, 1975, p. 1E.

³ *Ibid.*

On February 25, 1975, 40 of the demonstrators were arrested for violating a court injunction which banned demonstrations on county property. Two of the black ministers leading the protests were arrested and charged with extortion for allegedly intimidating the sheriff and his deputies by leading a group of demonstrators in the chant: "Two, four, six, eight, who shall we assassinate. . . ."³ Ministers H.K. Mathews and B.J. Brooks were convicted by an all white jury in June and later sentenced to 5 years in prison. Rev. Brooks, then president of the NAACP, was given 5 years probation with the stipulation that he not participate in any protests. His conviction was eventually overturned by the Circuit Court.⁴

Rev. Mathews, the president of the SCLC, continued to protest. He was jailed in the county without bond prior to sentencing, then confined in a state prison until bond was set when an appeal was filed.⁵ Eventually, Mathews' conviction was upheld by the Florida Supreme Court in 1978. He served 63 days in prison before former Florida Governor Reuben Askew, in the closing days of his administration, commuted his sentence to time served in December 1979.⁶

The convictions of B.J. Brooks and H.K. Mathews "broke the back" of the civil rights movement in Pensacola according to local black leaders. The message perceived by blacks was that law officers could treat blacks as they wished and anyone who

⁴ B.J. Brooks, interview in Pensacola, Fla., August 5, 1978.

⁵ *Mathews v. State*, 336 So. 2d 643 (1976).

⁶ H.K. Mathews, interview in Pensacola, Fla., July 17, 1978.

objected was inviting persecution by the authorities.⁷

Pensacola Police Department

The Pensacola Police Department has not been without controversy in recent years. From 1975 to mid 1980, 5 fatal shootings by police occurred. All victims were men; four were black.⁸ Questions about these shootings were often raised by black leaders and others in the community. On 3 occasions (one auto theft, one burglary, and one breaking and entering) the victims were unarmed. In all instances, the police officers were exonerated.⁹

The fatal shootings and other actions taken by police from 1977-1979 resulted in 10 complaints of police misuse of force being filed with the Escambia-Pensacola Human Relations Commission (HRC).

In October 1979 a memo from the HRC called on the Pensacola City Council for a full investigation of the police.¹⁰ The request came a week after an unarmed young black man, allegedly fleeing the scene of a burglary, was shot and killed.¹¹

The October 1979 memo from the HRC to the City Council regarding the police reminded the Council that in 1974 it had submitted 9 recommendations designed to improve police-community relations:

1. Grant authority for full HRC investigations of police misconduct complaints.
2. Require police participation in human relations courses.
3. Provide training to minimize the use of force in making arrests.
4. Recruit more black police officers
5. Use biracial police teams.
6. Research applicable policies used by other police departments.
7. Approve the appointment, by the HRC, of a police advisory committee to receive citizen input.
8. Publish procedures for filing citizen complaints against police.

9. Establish a new policy regarding the suspension of officers accused of misconduct.¹²

Only recommendations 8 and 9 were implemented. The remaining suggestions were again commended to the City Council in October 1979.

Leaders of the black community, including representatives of the SCLC and NAACP, also appeared before the city council in October 1979 and demanded that the "powder keg" of poor police-community relations be defused. They charged city police with brutality, victimization and harassment of blacks. The *Pensacola Journal* reported that SCLC leader Rev. B.A. Hemphill said the result of police misconduct is that black citizens have "no respect for the police department, or council or the city government." He told the council he was fearful of trouble ahead as a result. Police Chief James Davis (now the former chief) said he had been contacted by black leaders "several times over the years" and acknowledged he had not brought their concerns to the attention of the council.¹³

Black leaders also submitted a list of recommendations to the City Council in October 1979:

1. Establish a citizen's committee to assure equal treatment and equal protection under the law.
2. Establish a citizen's committee specifically to study allegations of police brutality.
3. Hire and promote more black officers.
4. Hire a community relations officer.
5. Use biracial police teams to investigate complaints by black citizens.¹⁴

All but the second recommendation were endorsed by the City Council. Six persons—3 black and 3 white—were appointed to the committee to assure equal treatment.¹⁵

Eugene Brown, Interim Director of the HRC, believes some progress was made in subsequent months. A 5-person class of police cadets is being formed in mid-1980 and applications, especially from minorities, are being solicited. The program gives its participants the opportunity to become prepared for

⁷ Interviews in Pensacola, Fla., August 12, 1978.

⁸ Lieutenant Herb Seeley, Pensacola Police Department, telephone interview, July 22, 1980.

⁹ Ibid.

¹⁰ Escambia-Pensacola Human Relations Commission, Memo Re Pensacola Police Department, to General Government Committee, Pensacola City Council, Oct. 18, 1979, np (hereafter cited as "HRC Memo").

¹¹ *Pensacola Journal*, Oct. 11, 1979, p. NA.

¹² HRC Memo.

¹³ *Pensacola Journal*, Oct. 12, 1979, p. NA.

¹⁴ Ibid., Oct. 26, 1979.

¹⁵ Eugene Brown, Interim Director, Escambia-Pensacola Human Relations Commission, interview in Pensacola, Fla., March 14, 1980.

entry level police training while having full-time employment according to Mr. Brown.¹⁶

A change in the civil service rules may result in more minority candidates being available for employment. Previously a selection would be made from among the top 3 candidates. Now any of the top 5 may be hired. One black officer has been promoted to the rank of lieutenant.¹⁷

In July 1980, a 25-year veteran of the Philadelphia Police Department was hired as a "community relations officer" to promote better understanding between city police and the public. Candidates were interviewed by a biracial panel composed of Eugene Brown, B.A. Hemphill, SCLC President and the city manager. The officer is not an employee of the police department; he reports to the city manager.¹⁸

Use of biracial police teams to investigate complaints against police cannot always be accomplished, according to Mr. Brown, due to the fact that there are few blacks on the force.¹⁹ There are 4 blacks on the sworn force numbering 130 officers.

Despite such changes, tension again rose in the black community in June 1980 when a black teenager, allegedly fleeing the scene of a burglary with several other youths, was fatally shot. The state's fleeing felon law and police policy based on it was once more at the center of public debate.²⁰

Within days of the shooting, the City Council had named a six member committee to review the police department's use of force policy and consider recommendations for change in that policy.

Mayor Vince Whibbs chairs the committee which includes Eugene Brown, HRC Vice Chair Sherman Robinson; A.J. Winfead, Director of Criminal Justice Training at Pensacola Junior College; Sergeant F.A. Bell of the Fraternal Order of Police and Rev. B.A. Hemphill, President of SCLC. Its recommendations should be announced in the fall of 1980.²¹

The Fleeing Felon Law and Firearms Policies

While community leaders and some police experts in Pensacola and elsewhere encourage the development of internal firearms policies for police which restrict the use of deadly force, state laws, such as

Florida's "fleeing felon" statute, are the ultimate standard in a state criminal proceeding.

Florida's fleeing felon law (statute 776.05) enacted in 1975 reads:

A law enforcement officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest or when necessarily committed in retaking felons who have escaped or when necessarily committed in arresting felons fleeing from justice.²²

While there has been no formal opinion issued by the Florida Attorney General on the fleeing felon statute,²³ former Attorney General Robert L. Shevin, in a letter of response to Dade County police officials dated August 24, 1976, clarified the law's use of the term "felon". The legislature intended the term felon only to distinguish between the crimes of felonies and misdemeanors not in reference to "convicted felons." The law, he said, does not distinguish between armed or unarmed felons, or between felony crimes against property rather than against a person.

A portion of Attorney General Shevin's letter appears to encourage some restrictions in the use of force:

. . .the officer is justified in using any force necessarily committed in retaking or arresting such persons [suspected felon], *provided that no more force is used than is necessary to apprehend the person to be arrested or to effectuate such arrest.*²⁴ [emphasis added]

Efforts are being made in Florida to change the law. During the 1980 legislative session, identical bills were introduced in the House and the Senate to amend the statute. House Bill 554 died in the

¹⁶ Eugene Brown, telephone interview, July 15, 1980.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Eugene Brown, telephone interview, June 30, 1980.

²⁰ *Pensacola Journal*, June 12, 1980, p. 16A; June 13, 1980, p. 1A and June 18, 1980, p. 7A.

²¹ Brown Interview, June 30, 1980. As of the October publication date, the recommendations have not been forwarded to the Advisory Committee.

²² West's F.S.A. Sec. 776.05.

²³ Sandy Martin, Clerk, Status Division and Elise Henderson, Criminal Division, Attorney General's Office, Florida, telephone interviews, July 15, 1980.

²⁴ Shevin letter to E. Wilson Purdy, former Director of Public Safety, Dade County.

Criminal Justice Committee with limited discussion taking place in a subcommittee.²⁵ Senate Bill 212 died in the Committee on Judiciary-Criminal after vigorous debate and amendments.²⁶

Senate Bill 212 as originally proposed was amended by its sponsor prior to consideration by the committee. The amended bill reads as follows:

Law enforcement officers; use of force in making an arrest.

A law enforcement officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance to the arrest. He is justified in the use of any force, except deadly force, which he reasonably believes to be necessary to effect the arrest, and defend himself or another from bodily harm while making the arrest. However, he is justified in the use of any force, including deadly force when he reasonably believes that:

- (1) Such force is necessary to prevent the arrest from being defeated by resistance; and
- (2) The person to be arrested has committed or attempted to commit a forcible felony, [felony against a person] or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.²⁷

The major changes to Florida Statute 776.05 under the amended bill are: 1) law officers would be permitted to use only non-deadly force to defend themselves or others; and 2) law officers could use deadly force in making an arrest only when the suspect offered resistance. Under Florida Statute Section 776.012 any person is allowed to use deadly force to prevent imminent death or great bodily harm to himself or others, thus officers of the law would still have that right. Another Florida law (Statute Section 776.07(1)) provides that law officers or others who have a person in custody are justified in the use of any force necessary to prevent the escape of the person. Thus officers would still retain the right to use deadly force to prevent escape by suspected felons. After discussion by the committee,

no vote was taken though it was passed for consideration at a later date.²⁸

A "compromise" bill was later proposed which altered the fleeing felon law only by adding a provision that whenever a death occurs at the hands of an officer, a duplicate of the report on the incident filed with his police agency will be filed with the Florida Department of Law Enforcement. The committee approved this bill, but it was never heard by the Senate or the House; it died on the calendar.²⁹

According to Assistant General Counsel Dick Schoditsch of the Governor's Office, the bills were supported by the Florida NAACP and the Urban League. The former urged Governor Robert Graham to support the bills, but he took no position. The Association of Chiefs of Police and the Sheriff's Association opposed the bills.³⁰

While state attorneys (through their Prosecuting Attorney's Association) were opposed to the bills as written, Association General Counsel Arthur Jacobs maintains that the membership is not necessarily opposed to revising the statute. The Association is not actively seeking to revise the law, but "will certainly be openminded" in considering any proposals.³¹

The Attorney General's Office was opposed to the bills "because of the way they were written" rather than their intent. Assistant Attorney General Raymond Marky specifically cited Florida's definition of "deadly force" as a major problem with the bill. Deadly force includes the use of firearms, but is not limited to the use of firearms. It includes any force which is likely to cause death or great bodily harm (Florida Statute 776.06). An officer's billy club, for example, would be included. Mr. Marky believes the current fleeing felon law could use minor modifications which would have to be carefully written. No such modifications, however, are being considered by the Attorney General's office at present.³²

Mr. Marky emphasized that the statute "is not a license to kill"; it is a statutory defense to a criminal charge. "The overwhelming number of police offi-

²⁵ Richard E. Schoditsch, Assistant General Counsel, Director, Prosecution Coordination Office, Office of the Governor, telephone interview, July 17, 1980 (hereafter cited as Schoditsch Interview).

²⁶ Barbara L. Berry, Legislative Analyst, Florida Senate Committee on Judiciary-Criminal, letter and attachments to Katie Harris, USCCR, July 23, 1980.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Schoditsch Interview.

³¹ Telephone interview, July 18, 1980.

³² Telephone interview, July 18, 1980.

cers in Florida understand" this distinction, said Marky.³³

All law enforcement agencies are free to issue policy statements which limit the authorized situations in which force can be used; however, state law is the controlling standard in criminal prosecutions. While most police departments serving large American cities do have written policies, they vary greatly.

A June 1979 study of the Escambia County Sheriff's Department by the National Sheriff's Association noted that one feature of a proposed operations manual for the department should be a use of force policy calling for:

. . . minimum force in the exercise of law enforcement authority. This should be explicit with respect to the use of firearms. Where a firearm is discharged by an employee of the Department the circumstances should be investigated. . . . The officer should be given administrative leave, with pay, until the matter is fully investigated.³⁴

Such a policy has since been adopted. In early 1980 a new firearms policy was issued by the Escambia County Sheriff's Department. The Sheriff's department firearms policy reads as follows:

A member shall not discharge firearms in the performance of his police duties except under the following circumstances:

1. In the necessary defense of himself when he has reasonable cause to believe that he is in imminent danger of death or serious bodily injury.
2. In the necessary defense of another person when he had reasonable cause to believe that he is in imminent danger of serious bodily injury.
3. To effect the arrest when the member has reasonable cause to believe that the suspect has committed or attempted to commit a felony involving the use or threatened use of deadly force, or when the member has reasonable cause to believe that a substantial risk exists that the person to be arrested will cause death or serious bodily harm if his apprehension and control have been exhausted *or after a prisoner has been booked and is escaping or*

attempting to escape from the custody or control of the Corrections Department, Court Security, or other law enforcement agency.

4. To kill an animal that is so badly injured that humanity requires its removal from further suffering and all other options, including taking it to a veterinarian, have been considered.

5. For target practice at approved range.³⁵

Written reports on any firearms discharged are to be filed before the officer involved goes off duty. When a death is involved, the officer is relieved of his/her regular assignment until the department completes its investigation of the shooting.³⁶

Chief Deputy W.E. Ambrose says such officers are usually assigned to an office job during investigations.³⁷ Since 1975, 2 persons have died as a result of shootings by sheriff's deputies; both were white men. In one instance, the officer shot in self defense. In the other, the victim was escaping from jail. There have been no fatalities since 1977.³⁸

The firearms policy of the Pensacola Police Department reads as follows:

Firearms Policy

The policy of this department is that members shall exhaust every other means of apprehension before resorting to the use of firearms.

The purpose of the regulation governing the discharge of firearms are needed for the following reasons: [sic]

1. To inform members when they are authorized to use firearms in the performance of police duty.
2. To preclude the unnecessary discharge of firearms.
3. To establish uniformity in use.

When firearms may be discharged:

1. Under instructions at target practice or upon an approved range.
2. When it is necessary to kill wounded or dangerous animals and other disposition is impractical.

³³ Ibid.

³⁴ National Sheriff's Association, *A Study of the Sheriff's Department, Escambia County, Florida*, June 1979, p. 95.

³⁵ Escambia County, Sheriff's Department, "Firearms Regulations", Section 27.21, no date.

³⁶ Ibid.

³⁷ Interview in Pensacola, June 17, 1980.

³⁸ Lt. Charles D. Grant, Chief Identification Officer, Escambia County Sheriff's Department, letter to Courtney Siceloff, USCCR, July 21, 1980.

3. When it is necessary in the defense of one's own life or the life of another, when all other means have failed.

4. When necessary to prevent the escape of a person charged with or convicted of a felony or when a felony has been committed, to effect the capture of or prevent the escape of a person an officer has good reason or just cause to believe committed that felony, when all other reasonable means have failed.

When Firearms may NOT be discharged:

1. As a warning.

2. In any misdemeanor or city ordinance case, including traffic violations, unless it is part of a total series of events that includes reasonable grounds for believing a felony has been committed.

3. In any area so crowded with people that even the killing or wounding of a fugitive might result also in the death or injury of some innocent person.³⁹

After a firearm has been discharged, the officer is to submit a written report to the commanding officer "as soon as time and circumstances permit." The incident is then investigated by the commander and results are forwarded to the chief of police. The policy makes no mention of relieving officers of their regular duty during investigations of shootings.⁴⁰

National Opinions on Firearms Policies

A substantial body of research by police experts supports the position that police departments should have written policy statements which govern the use of firearms. Though written in 1967, a report by a task force on the police of the President's Commission on Law Enforcement and the Administration of Justice is often cited on this issue. It reads:

It is essential that all departments formulate written firearms policies which clearly limit their use to situations of strong and compelling need. A department should even place greater restriction on their use than is legally required.⁴¹

The guidelines recommended for firearms control which were developed by the Presidential Commis-

sion after review of the policies of several police departments and discussions with numerous police administrators, are reprinted here in their entirety:

1. Deadly force should be restricted to the apprehension of perpetrators who, in the course of their crime threatened the use of deadly force, or if the officer believes there is a substantial risk that the person whose arrest is sought will cause death or serious bodily harm if his apprehension is delayed. The use of firearms should be flatly prohibited in the apprehension of misdemeanants, since the value of human life far outweighs the gravity of a misdemeanor.

2. Deadly force should never be used on mere suspicion that a crime, no matter how serious, was committed or that the person being pursued committed the crime. An officer should either have witnessed the crime or should have sufficient information to know, as a virtual certainty, that the suspect committed an offense for which the use of deadly force is permissible.

3. Officers should not be permitted to fire at felony suspects when lesser force could be used; when the officer believes that the suspect can be apprehended reasonably soon thereafter without the use of deadly force; or when there is any substantial danger to innocent bystanders. Although the requirement of using lesser force, when possible, is a legal rule, the other limitations are based on sound public policy. To risk the life of innocent persons [sic] for the purpose of apprehending a felon cannot be justified.

4. Officers should never use warning shots for any purpose. Warning shots endanger the lives of bystanders, and in addition, may prompt a suspect to return fire. Further, officers should never fire from a moving vehicle.

5. Officers should be allowed to use any necessary force, including deadly force, to protect themselves or other persons from death or serious injury. In such cases, it is immaterial whether the attacker has committed a serious felony, a misdemeanor, or any crime at all.

6. In order to enforce firearms use policies, department regulations should require a detailed written report on all discharges of firearms. All cases should be thoroughly investi-

³⁹ City of Pensacola, Police Department, "Regulating the Use of Firearms", no date.

⁴⁰ Ibid.

⁴¹ U.S., President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: The Police*, 1967, p. 189.

gated to determine whether the use of firearms was justified under the circumstances.⁴²

In his remarks at the U.S. Commission on Civil Rights consultation on "Police Practices and the Preservation of Civil Rights" in 1978, Patrick Murphy, President of the independent, nonprofit Police Foundation, noted extensive support for the 1967 Presidential Commission's call for written policies. The National Advisory Commission on Civil Disorders, the National Advisory Commission on Criminal Justice Standards and Goals and the American Bar Association subsequently called for police agencies to form administrative rules governing the exercise of discretion by police officers.⁴³ Mr. Murphy is a former Commissioner of Police in New York City, and Detroit; former Director of Public Safety in Washington, D.C. and was Administrator of the Law Enforcement Assistance Administration during the Johnson Administration.⁴⁴

In 1972 the New York City Police Department promulgated guidelines which restricted the use of firearms by police more narrowly than was provided by state law. Lieutenant James Fyfe, a 15 year veteran of the department who holds a doctorate in criminal justice and is associated with the police academy in New York, reports that the guidelines were effective in reducing police use of deadly force. Prior to the issuance of guidelines, 18 police officers discharged their guns every week. After the guidelines were issued, the rate declined to 13 per week. More significant, however, is the fact that

shootings in fleeing felon circumstances declined 75 percent. The instances when officers discharged their firearms in defense-of-life situations remained "relatively constant" in the Lieutenant's words, decreasing 15-18 percent.⁴⁵

Another finding of the New York police is that a dramatic decrease in injuries and duty-related deaths of police officers coincided with the implementation of the stricter firearms policy. While Lt. Fyfe cautioned that this decrease could not be categorically credited to the implementation of the firearms policy, it was evident that the new policy did not make police work more dangerous for officers.⁴⁶

The United States Commission on Civil Rights issued a statement on July 9, 1980 which called for both local and Federal Government action to address patterns of police misconduct and the public distrust which results. It addresses the issue of deadly force in this manner:

Police practices and laws governing the use of deadly force must reflect concern for safeguarding the lives of officers, bystanders and suspects. The circumstances in which deadly force may be used should be limited to those occasions on which it is necessary to protect the officer or another person from death. Training should emphasize alternatives to the use of deadly force in resolving conflict, and should also promote officer fitness and proficiency in the use of all issued weapons so as to discourage a hasty resort to firearms in situations in which other alternatives would suffice.⁴⁷

⁴² Ibid., pp. 189-190.

⁴³ U.S., Commission on Civil Rights, *Police Practices and the Preservation of Civil Rights* (1978), p. 66.

⁴⁴ Ibid., p. 65.

⁴⁵ Ibid., pp. 69-70.

⁴⁶ Ibid., p. 71.

⁴⁷ U.S., Commission on Civil Rights, "A Statement by the USCCR; Police Practices and the Preservation of Civil Rights", July 9, 1980, pp. 20-21.

Equal Opportunity in Employment

Laws Prohibiting Employment Discrimination

The principal vehicle prohibiting discrimination by recipients of Federal funds is Title VI of the Civil Rights Act of 1964, as amended. It reads in part:

No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.¹

Pensacola and Escambia County receive millions of Federal dollars each year. The two agencies from which most money is channeled into the police and sheriff's departments are the U.S. Department of Justice, Law Enforcement Assistance Administration (LEAA), and the U.S. Department of the Treasury, Office of Revenue Sharing (ORS).

A total of \$1,605,176 in LEAA grants was awarded from fiscal years 1974-1980 to the Sheriff's Department, the County and the courts. Over \$1,000,000 went directly to the Sheriff's Department itself. The City of Pensacola received just over \$47,000 in awards during the same period; the police department received \$426,320.²

ORS funds received by the Board of County Commissioners have averaged approximately \$2.6 million every year since 1975. The average amount channeled to the Sheriff's Department is approxi-

mately \$50,000 during the same 6 year period.³ The average amount received by the City of Pensacola is \$1.1 million per year from 1975-1980.⁴ It is not known what percentage goes to the police department.

In addition to Title VI, both the Omnibus Crime Control and Safe Streets Act of 1968, as amended⁵ (administered by LEAA) and State and Local Fiscal Assistance Act of 1972 as amended⁶ (administered by ORS) contain nondiscrimination provisions⁷ like those in Title VI. Notable additions prohibit discrimination based on religion or sex in LEAA or ORS programs and in age and handicapped status in ORS-funded programs.

The Law Enforcement Assistance Administration was created in 1968 to "give large scale financial and technical aid to strengthen criminal justice at every level throughout the Nation."⁸

The civil rights requirements of Title VI and other relevant authority applicable to LEAA are not passive. Rather, a recipient of LEAA funds is required to illustrate not only that it will allow no prospective discrimination, but in addition, that it will take affirmative steps to eradicate the effect of past discriminatory actions.

LEAA's guidelines for ensuring equal employment opportunity require a recipient of funds to keep adequate employment information and a written "equal employment opportunity plan." From the

Courtney Sicheloff, Equal Opportunity Specialist, USSCC, August 12, 1980.

³ 42 U.S.C. §3701, et seq.

⁴ 31 U.S.C. §1221-1264.

⁷ See 42 U.S.C. §3766 and 31 U.S.C. §1242 respectively.

⁸ 42 U.S.C. §3701, et seq.

¹ 42 U.S.C. Sec. 2000d.

² Bob McAuliffe, Director, Criminal Justice Planning, West Florida Regional Planning Council, telephone interview, July 16, 1980.

³ Albert Kyles, Grant Officer, Escambia County, telephone interview, July 25, 1980.

⁴ Walter D. Parker, Director of Finance, City of Pensacola, letter to

information gathered, the recipient must make a detailed analysis of its employment policies, practices and procedures relating to minorities and women and detail specific steps the recipients will take to achieve full and equal employment opportunities.⁹

One measurement which LEAA uses to decide whether to conduct a compliance review of a recipient agency is the relative disparity between the percentage of minorities and women in the relevant labor market and the percentages employed by the recipient.¹⁰

Ideally, the personnel of the Pensacola Police Department and the Escambia County Sheriff's Office should reflect the work force of the city and surrounding area. Labor force statistics for 1970 showed a percentage of 30 for blacks in the city, and 1.6 percent for Hispanics. In the surrounding area (Escambia and the adjoining Santa Rosa County) the labor force was 15 percent black and 1.3 percent Hispanic.¹¹

The Office of Revenue Sharing was established to administer the State and Local Fiscal Assistance Act of 1972.¹² Under the Act, Federal tax revenue is dispersed to state and local government units according to an established formula. The formula considers population, tax effort, per capita income, urban population and state income tax receipts. Use of funds is determined by the recipient government, subject to a broad priority of use set forth in the Act.

ORS regulations prohibiting employment discrimination specifically state that the results of past discriminatory practices shall not be perpetuated.¹³ Guidelines for affirmative action in employment are included in the ORS regulation.¹⁴

The guidelines state:

The first step in the construction of any affirmative action plan should be an analysis of the work force to determine whether percentages of sex, race or ethnic groups in individual job classifications are substantially similar to the percentages of those groups available in the work force in the relevant job market who possess the basic job related qualifications.

When substantial disparities are found through such analysis, each element of the overall

selection process should be examined to determine which elements operate to exclude persons on the basis of sex, race or ethnic group.

Both LEAA and ORS provide for citizen complaints of discrimination, investigation of such complaints and the withholding of Federal funds if a recipient government is found to have discriminated in the use of those funds. As of mid 1980 no such complaints had been filed against the sheriff's or police departments.

Employment Patterns in the Pensacola Police Department

The recommendations to Pensacola officials made by the HRC and later by black leaders in late 1979 included several dealing with the absence of blacks on the police force. That the issue of employment and the visibility of blacks was raised comes as no surprise to the Florida Advisory Committee. Studies by the Committee have often found that where poor police-minority community relations exist, minorities have, without fail, been underrepresented on the police force.

The Task Force on the Police of the President's Commission on Law Enforcement and Administration of Justice states in its 1967 report:

In order to gain the general confidence and acceptance of a community, personnel within a police department should be representative of the community as a whole.

Police departments in all communities with a substantial minority population must vigorously recruit minority group officers. The very presence of a predominantly white police force in a Negro community can serve as a dangerous irritant. . . .¹⁵

Though black officers are employed in the city police department, their number is small and has recently declined. The force of 136 sworn officers in the city police department in 1978 included 6 black men for a total minority representation of 4 percent. Three white women were sworn officers.¹⁶ By 1979 (See Table 3.1) the total sworn force had declined to 130 officers, including 4 black males (3 percent of the total) and 2 white females (1.5 percent of the

⁹ 28 C.F.R. §42.304.

¹⁰ 28 C.F.R. §42.206(b) (1).

¹¹ U.S., Department of Commerce, Bureau of the Census, *1970 Census of Population and Housing, Census Tracts, Pensacola, Fla.*, PHC(1)-157, pp. 314 and 344.

¹² 31 U.S.C. §1221 1264.

¹³ 31 C.F.R. §51.52(b) (3).

¹⁴ 31 C.F.R. §51.60.

¹⁵ U.S., President's Commission on Law Enforcement and Administration of Justice, *Task Force Report, The Police*, 1967, p. 167.

¹⁶ City of Pensacola, Police Department, untitled personnel statistics, July 19, 1978.

TABLE 3.1
Pensacola Police Department Personnel
June 30, 1979

	W/M	%	B/M	%	W/F	%	B/F	%	Other	%	Total
SWORN OFFICERS											
Chief	1	100%									1
Captain	4	100%									4
Lieutenant	8	100%									8
Sergeant	21	95%	1	5%							22
Identification Supervisor	1	100%									1
Officer	89	95%	3	3%	2	2%					94
Subtotal Sworn	124	95%	4	3%	2	2%					130
CIVILIAN PERSONNEL											
Records Supervisor	1	100%									1
Dispatcher	4	44%	1	11%	4	44%					9
Secretary					2	100%					2
Clerk					12	92%			1	8%	13
Police Cadet			4	40%	1	10%	5	50%			10
Airport Security	1	100%									1
Corrections Officer	2	100%									2
Technician	2	66%			1	33%					3
Cook					1	100%					1
Custodian	1	50%					1	50%			2
Subtotal Civilian	11	25%	5	11%	21	48%	6	14%	1	2%	44
TOTAL EMPLOYEES	135	78%	9	5%	23	13%	6	3%	1	.6%	174

Source: Pensacola Police Department, Position and Assignment Survey for Period Ending June 30, 1979

TABLE 3.2
Escambia County Sheriff's Department Personnel
June 30, 1979*

SWORN OFFICERS	W/M	%	B/M	%	W/F	%	B/F	%	Other	%	Total
**Sheriff											
Chief Deputy Sheriff	1	100%									1
Lieutenant	6	100%									6
Sergeant	16	94%	1	6%							17
Investigator	17	100%									17
Identification Technician	6	100%									6
Motorcycle Operator	3	100%									3
Deputy Sheriff	94	91%	8	8%	1	1%					103
Subtotal Sworn	143	94%	9	6%	1	.6%					153
CIVILIAN PERSONNEL											
Garage Supervisor	1	100%									1
Accountant					3	100%					3
Communication											
Dispatcher	11	65%			6	35%					17
Auto Machanic	3	100%									3
Secretary					8	100%					8
Data Entry Operator					2	100%					2
Accounting Clerk	1	33%			2	66%					3
Information Asst.	1	100%									1
Clerk Typist					23	96%			1	4%	24
Custodial			1	50%			1	50%			2
Subtotal Civilian	17	27%	1	2%	44	69%	1	2%	1	2%	64
TOTAL EMPLOYEES	160	74%	10	5%	45	21%	1	.5%	1	.5%	217

*Source: Escambia County Sheriff's Department, EEO Quarterly Workforce Report July 9, 1979

**The Sheriff is an elected official.

total). Black officers have not ranked above sergeant; women have not been above the "police officer II" level.

The civilian workers within the city police department increased from 24 in 1978 to 44 in 1979. These workers include dispatchers, secretaries, technicians, etc. Only one minority person—a Hispanic woman—was in the civilian work force in 1978. By 1979, 11 blacks were added, increasing the percentage from 4.2 to 27. One, however, was a temporary job funded by "CETA", a Federal job program.

A police cadet program, funded by the Federal Law Enforcement Assistance Administration, was designed to provide training and development for persons interested in a law enforcement career who are not yet equipped to pass the entrance exam for "police officer I".

A total of 31 cadets have passed through the program; 52 percent were black and 68 percent were female. Six former cadets are now employed as regular police officers. Three of them are black men, 2 are white women and one is a white man. Two black women have been hired under a special contract as airport security guards.¹⁷

¹⁷ Lieutenant Herb Seeley, Pensacola Police Department, telephone interview, July 22, 1980.

Employment Patterns in the Escambia County Sheriff's Office

The sworn force of 154 sheriff's officers in 1974 included 4 black men (3 percent) and no women.¹⁸ By 1979 (See Table 3.2) the force of 153 officers included 9 black men (6 percent) and one white woman (.6 percent). The rank of black officers has not changed significantly. The blacks employed in 1974 were at the rank of "law enforcement officer I", and "investigator", just below the rank of sergeant. By 1979 there was one black sergeant out of the 17 sergeants on the force with all other black officers in the lower ranks.

The representation of minorities among the civilian workers in the sheriff's office has declined since 1974. Civilian workers numbered 69 in 1974, including 8 blacks for 12 percent of the group. Women comprised almost 70 percent. By 1979 the civilian workers totaled 64, only 3 of whom were minority or 4.8 of the total. Two of those 3 held custodial jobs. Females maintained their approximately 70 percent representation although with only 2 minority women instead of the 7 employed in 1974.

¹⁸ Escambia County, Sheriff's Office Affirmative Action Plan, June 29, 1974.

Findings and Recommendations

Finding: Racial Tensions and Police

A lack of mutual understanding and respect exists between black residents, the Escambia County Sheriff's and the Pensacola Police Department's Officers. Though some officials and community leaders may disagree that a genuine problem exists, the mere fact that some citizens and their leaders *perceive* that a problem exists is reason enough for concern. Cooperation and support from all segments of a community are necessary to effective police work and these vital elements are not fully evident in Pensacola and Escambia County.

Currently, there is no formal means of communication between the community and either law enforcement agency. The limited involvement of the understaffed Human Relations Commission and the ad hoc services rendered by special committees appointed to respond to crises are not adequate means to achieve the goal of permanently healthy police-community relations.

Recommendation

Two permanent committees charged only with the task of improving police-community relations should be established—one to work with the County Sheriff's Department and one with the City Police Department. Two committees are necessary since the two law enforcement agencies are separate and distinct, each with its own policies and procedures and each answering to separate local governments.

The Escambia County Sheriff, an elected official, and the Escambia County Board of Commissioners, the elected officials who allocate tax funds to the Sheriff's Department, should appoint a permanent

biracial committee whose members reflect a cross section of the county, its community groups and residents. The expertise of business, church, educational, police and civil rights leaders should be channeled to this committee. Its primary purposes should be: (1) to provide open and direct lines of communication between residents and police and 2) to provide sheriff's officials with a forum for the review of existing and proposed department policies. The committee should establish "satellite" or "neighborhood" units for the purpose of providing direct "grass roots" opinions to the committee. The committee should meet with these units in their respective neighborhoods.

The City Council of Pensacola should likewise appoint a permanent, biracial city-wide committee as described for the county. Again, the committee should also establish some type of neighborhood units to ensure that the opinions of concerned residents will be heard and that they will likewise, hear the concerns of police officials and officers themselves.

Among the first issues to be addressed by both the city and county committees are patterns of employment and the firearms policies of each law enforcement agency.

Finding: Employment Patterns

Women and minorities are grossly underrepresented in both the Escambia County Sheriff's Department and the Pensacola Police Department. While blacks in the labor force of the county and Santa Rosa County comprise 15 percent of the population and Hispanics 1.3 percent in 1970, the

sworn force of the Sheriff's Department in 1979 included only 9 black officers representing 5.9 percent of the force. No Hispanics or other minorities were officers and only one white woman. Approximately 36 percent of the area's labor force is female. Eight of the black officers and the one woman were all at the lowest ranking sworn officer level—that of sheriff's deputies. One black officer was a sergeant.

Employment data for 1980 submitted by the Sheriff's Department (See Appendix) reveals no progress for minorities or women within the Department. The number of sworn officers increased by 12 percent from June 1979–June 1980 (from 153 to 172). For minorities, however, the loss of one officer meant an 11 percent decrease in minority representation. There was no change for women—only one woman is on the sworn force. There was no change in rank for minorities or women.

Among the Sheriff's Department's civilian employees there was a 2 percent decrease in the number of women employed, although the total number of civilian workers increased by 11 percent.

In the City Police Department, out of a total of 130 sworn officers, only 4, or 3 percent were black in 1979. No other minorities were represented. Only 2 white women and no minority women are on the sworn force. One of the black officers was a sergeant; the other blacks and the 2 women were at the "patrol officer" level. Within the city itself, blacks make up 30 percent of the labor force and Hispanics 1.6 percent. Women comprised about 36 percent of the labor force.

It is clear to the Florida Advisory Committee that, official statements of equal opportunity and affirmative action plans notwithstanding, minorities and women are not being attracted to, retained or promoted in the Escambia County Sheriff's Department or the Pensacola Police Department. Given the overwhelming dominance of white males in both police agencies, it is of little wonder why many blacks believe police-community relations are poor. Hostility toward any segment of government is easily bred when given segments of a community are policed and disciplined by a system in which they and their peers are effectively excluded.

Recommendations

The Sheriff and the Board of Commissioners of Escambia County, the Chief of Police and the City Council of Pensacola should, for their respective

police agencies, establish goals of full participation in all levels of the agencies, of minorities and women in numbers approximating their respective proportions in the labor forces of the service areas. While it is evident from 1979 statistics that the total size of both police agencies has declined in years passed, vacancies no doubt occur by attrition. The goals set by each police agency should be achieved within the shortest time possible. The recruitment, hiring, training and promotions procedures of the Sheriff's and Police Departments should be reviewed by outside experts to identify barriers to the attraction and retention of minorities and women. Barriers identified should be eliminated. If vacancies occur within the police agencies during the coming year, progress toward goals for minorities and women should be made.

The Florida Advisory Committee calls upon the U.S. Commission on Civil Rights to urge that the Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice and the Office of Revenue Sharing (ORS) of the U.S. Department of Treasury conduct compliance reviews which focus on employment patterns of both the Escambia County Sheriff's Department and the Pensacola Police Department. If adequate goals for the employment of minorities and women are not set by the respective police agencies and if good faith effort toward achieving them is not evident one year after the goals have been established, LEAA and ORS should exercise their authority, including the withholding of funds, to assure that minorities and women receive equal employment opportunity.

Finding: Firearms Policies

Both the firearms policies of the Escambia County Sheriff's Department and the Pensacola Police Department fall short of the model provided by the President's Commission on Law Enforcement and the Administration of Justice. While the Sheriff's Department should be commended for its new policy and the absence of any fatal shootings during the past 3 years, setting additional parameters for firearms discharge would further strengthen the department's statement.

The Pensacola Department's policy is little more than a restatement of the State's fleeing felon law.

Recommendations

The U.S. Commission on Civil Rights said in its July 1980 statement "Police Practices and the

Preservation of Civil Rights” that where a state fleeing felon statute remains in effect, the firearms policies of local police can and should be narrower than the applicable state law on the use of deadly force. The Florida Advisory Committee urges the Escambia County Sheriff’s Department and the Pensacola Police Department to develop firearms policies narrower than Florida statute 776.05 which encompass these concepts cited by the U.S. Commission:

The circumstances in which deadly force may be used should be limited to those occasions on which it is necessary to protect the officer or another person from death. Training should emphasize alternatives to the use of deadly force in resolving conflict, and should also promote officer fitness and proficiency in the use of all issued weapons so as to discourage a hasty resort to firearms in situations in which other alternatives would suffice.

The detailed guidelines for a firearm’s policy as recommended by the 1967 *Presidential Commission*, and reprinted in its entirety in chapter 2, are commended to the Escambia and Pensacola law enforcement officials as an additional aid in formulating new policies.

Finding: Florida’s Fleeing Felon Statute

The Florida fleeing felon statute is broad in its protection of a police officer’s decision to use “any force which he reasonably believes to be necessary” in pursuing suspected felons. The law makes no distinction between suspected felons who are armed or unarmed. Neither does it distinguish between suspects of felony crimes against property versus felony crimes against persons. While the intent of the law may be that of defense for law officers accused of a criminal charge, its effect is to place law officers in the tenuous position of being both judge and jury when they pursue suspected felons.

Recommendation

Florida Governor Robert Graham should initiate efforts to draft legislation to amend the State’s fleeing felon law. Legislators who proposed such changes in 1980, representatives of the NAACP and others who support a change, as well as representatives of the sheriff’s, police and prosecutors’ associations which opposed it, should be included on a

well-balanced, working committee to draft legislation.

A law which truly provides a defense against criminal charges when a police officer has exercised good judgment in apprehending a person who poses a threat to public safety and who is strongly suspected of committing a felony against a person must be enacted. The same law, however, must compel the apprehension of non-threatening felony suspects without the use of deadly force.

The drafting and passage of such legislation is vital to community peace not only in Pensacola, but Miami, Tampa, Jacksonville, Orlando—virtually the entire State. Leadership for such a task must come from the State’s highest official, the governor. And it must come without further delay.

Finding: The Escambia-Pensacola Human Relations Commission

Despite the persistence of racial tension in Escambia County, the local governments’ human relations organization established to deal with such problems is a small and sparsely funded public agency. In a community where the county government receives approximately \$2.6 million annually in Revenue Sharing funds alone, and the city \$1.1 million from the same source, the Human Relations Commission has a total 1980 budget of \$25,000.

The city has recently hired a “community relations officer” to develop a program for bettering police-community relations. It is commended for doing so. However, the Florida Advisory Committee hastens to assert that vigorous efforts by one such officer and a small Human Relations Commission cannot be as effective as a strong, vigorous commission which involves many citizens and elected officials.

The Escambia-Pensacola Human Relations Commission has, nevertheless, made and continues to make contributions toward resolving police-community tension. It is commended for its work.

Recommendation.

The City Council and County Commission should reexamine their commitment to bettering human relations through the Escambia-Pensacola Human Relations Commission. A strong, aggressive Commission with adequate funding, full time, expert staff, influential and dedicated commissioners must be built.

APPENDIX

Escambia County Sheriff's Department Personnel

June 30, 1980

SWORN OFFICERS		W/M(%)	B/M(%)	W/F(%)	B/F(%)
*Sheriff					
Chief Deputy Sheriff		1			
Lieutenant		7			
Sergeant		18	1		
Investigator		19			
Identification Technician		1			
Motorcycle Operator		4			
Deputy Sheriff		109	7	1	
Subtotal Sworn	172	163 (95)	8 (4.6)	1 (0.5)	
Civilian Personnel					
Garage Supervisor		1			
Accountant		3			
Communication Dispatcher		17			
Auto Mechanic		4			
Secretary				10	
Data Entry Operator				2	
Accounting Clerk				4	
Information Asst.		1			
Clerk Typist				27	
Custodian			1		1
Subtotal Civilian	71	26 (37)	1 (1.4)	43 (61)	1 (1.4)
Total Employees	243				

*The Sheriff is an elected official
Source: Escambia County Sheriff's Department

U.S. COMMISSION ON CIVIL RIGHTS
WASHINGTON, D.C. 20425

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300

BULK RATE
POSTAGE AND FEES PAID
U.S. COMMISSION ON CIVIL RIGHTS
PERMIT NO. G73

