

Police-Community Relations in Southern West Virginia

West Virginia Advisory Committee to the
United States Commission on Civil Rights

March 1993

A Report of the West Virginia 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. The findings and recommendations of this report should not be attributed to the Commission but only to the West Virginia Advisory Committee.

The United States Commission on Civil Rights

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Letter of Transmittal

West Virginia Advisory Committee to the
U.S. Commission on Civil Rights

Members of the Commission

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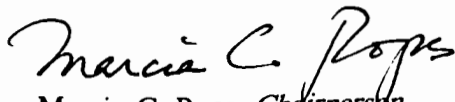
The West Virginia Advisory Committee submits this report of problems in police-community relations in the southern part of the State. By a vote of 10 to 0, the Advisory Committee unanimously approved the report.

Committee members had heard or received complaints about poor police-community relations, mistreatment of African American citizens by law enforcement officers, and inadequate protection provided to members of the minority communities. The Committee learned that minority communities had mounting concerns about the police and it was urged by community leaders to come into the affected areas to hold a public hearing to provide an airing of these concerns.

On May 21, 1991, the Committee held a community forum to which groups of community representatives, law enforcement officers, and commentators were invited to share their views and respond to questions. Based on the presentations and ensuing exchanges, the Committee developed four major recommendations as possible remedies for the problems identified in the forum. These recommendations include: 1) appointing a civilian commission to review the needs of civilian review boards to investigate alleged police misconduct, 2) appointing a factfinding task force to investigate the underrepresentation of minorities and women in law enforcement, 3) requiring mandatory multicultural training for all law enforcement officers, and 4) the State's political leadership denouncing all acts of police misconduct to make it clear that the fair administration of justice is a high priority in West Virginia.

The Committee believes that this report, when widely disseminated, will enhance sensitivity to police-community issues among public officials, legislators, and the general public. It hopes that informed citizenry and sensitized societal climate will lead to improved police-community relations and help build a racially harmonious, pluralistic society in West Virginia.

Sincerely,



Marcia C. Pops, *Chairperson*
West Virginia Advisory Committee

West Virginia Advisory Committee

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Introduction

On Tuesday, May 21, 1991, the West Virginia Advisory Committee to the United States Commission on Civil Rights held a forum on police-community relations in southern West Virginia. Three panels of speakers, consisting of community representatives, law enforcement officials, and commentators, were invited to share their respective viewpoints on issues of police-community relations.

Several developments prompted the Committee to hold this forum. First, Committee members had heard or received complaints about poor police-community relations in Huntington and other cities and counties in the southern part of the State. Black citizens reportedly were mistreated by law enforcement officers, or did not receive appropriate protection from them. Both recent and current court cases filed by blacks against law enforcement agencies were cited as examples of exacerbating already poor police-community relations.

Second, the city of Charleston has been cited as an example of improved police-community relations in recent years. The Committee considered it instructive to compare Charleston with other cities and, if possible, identify the factors that improved relationships between the minority community and the police in Charleston.

Third, an informal check with community leaders in several cities and counties in the area alerted the Committee to the fact that minority communities have mounting concerns about the police. The Committee was also urged to come into these areas to hold a public hearing to provide an airing of these concerns. Some community representatives in Huntington cited a December 1990 drive-by shooting, described in detail on page 8, as an example of their concerns and fears.

Based on these considerations, the Committee decided that the forum would provide an opportunity:

1) to community organizations and individuals to air grievances and articulate their perception of problems;

2) to law enforcement agencies and other public officials to describe and explain their operations regarding the recruiting and training of law enforcement officers and the handling of police misconduct complaints;

3) to suggest and discuss the means of ameliorating current problems and develop strategies for long-range improvement; and

4) to examine the issue of underrepresentation of minorities on the police force, its probable causes, and possible remedies.

This report is a summary of 1) the presentations made during the forum, 2) the ensuing exchange that took place among the panelists, Committee members, and audience, and 3) the findings and recommendations based on the presentations and exchanges. The summaries are based on the transcript of the forum proceedings.¹ Allegations made at the forum are stated as allegations in this report without the Committee's independent verification or documentation. Limited resources also prevented the Committee from further researching or pursuing the issues raised at the forum.

Remarks of Robert R. Nelson Mayor, City of Huntington

The forum began with the mayor's welcome. In his remarks to the Advisory Committee, Mayor Nelson made the following comments:

1. Huntington's problems between its citizens and law enforcement agencies are similar to the problems found in other cities throughout the State, but they are more visible because of the city's efforts to solve them.

2. The limited resources of law enforcement agencies and the myriad of State and Federal regulations are potential sources of Huntington's problems. For

¹ A copy of the transcript is on file at the Eastern Regional Office of the U.S. Commission on Civil Rights (hereafter cited as Transcript).

example, Huntington needs at least 16 additional officers to have the minimum number required to patrol and take care of city law enforcement. Due to the time-consuming but necessary training and certification process, however, a police officer is not on the street doing his job for 9 months or more after he is hired. This required training and certification process needs to be reviewed either to shorten it or to pass more people and thus provide more candidates.

3. Police-community relations would improve with citizen participation and awareness about what law enforcement agencies do and why they do it. Efforts should be made to better inform the general public concerning the limited resources available to law enforcement agencies, the selection and hiring of law enforcement officers, and the impact of State and Federal regulations on resolving problems.

Panel One: Community Representatives

Stephen Starks **Owner and Editor-in-Chief of the** ***Beacon Digest*, West Virginia's Only** **Black Newspaper, Charleston, WV**

Stephen Starks read a statement prepared for the forum by James Tolbert, president of the West Virginia State NAACP, and then presented his own recommendations for improving police-community relations.

According to Mr. Tolbert, random arrests and selective enforcement of violations in the minority community are common and they are typical of police misconduct. In his view, police-community relations have recently deteriorated because of widespread mistrust of police, brought on by erratic police conduct and lack of minority representation in the police force. He charged that the West Virginia State police have not made a sufficient commitment to creating a racially diverse police force. Many midsize to large communities in the State have no African American officers. Recruiting, testing, selection, and promotion practices are at fault. Police recruiters tend to think that placing the words "Equal Opportunity Employer" on recruiting literature satisfies EEO requirements and will placate minority groups.

The State-mandated qualifying examination for law enforcement officers is a barrier against minority candidates who want to pursue law enforcement careers. Many African American candidates are not selected because of their scores on the required examination or other requirements. To dismantle this alleged discriminatory barrier, the State NAACP has filed suit² in Federal court against the State police superintendent for discriminatory hiring and promotional practices.

Strong leadership by city, county, and State governments, including West Virginia law enforcement associations, is an essential ingredient for improving

relations between the minority community and law enforcement officials. This leadership should first commit itself and direct its resources toward creating a racially diverse police force. It should provide multicultural sensitivity training and undertake police-initiated community relations efforts.

Mr. Starks made five specific recommendations for improving police-community relations:

1) State and local leadership, i.e., the Governor and mayors, promote racial equity and harmony between police and the African American community on every level, from State police to municipalities, focusing on minority hiring, retention, and promotion. In reference to the need for strong leadership, he pointed out that visible improvements brought about in the police and fire departments in Charleston, West Virginia, resulted from a lawsuit filed by black police officers and its ensuing consent decree in hiring and promoting minority persons.³ Strong leadership and sincere initiatives by police and fire departments for minority hiring are likely to bring about positive results, avoiding lawsuits or legal action;

2) A civilian task force be formed to investigate all allegations of police officers' racial wrongdoing, monitor past offenders, and prosecute proven cases of police misconduct;

3) Police departments increase their sensitivity in dealing with African Americans and other minorities throughout the State;

4) Police recruiters creatively recruit African American applicants for law enforcement positions by:

a) Identifying the problems that have deterred African Americans from applying for these positions and overcoming them;

² Ross v. Bucklew, No. 5:1159 (S.D. W.Va. filed Dec. 11, 1990).

³ Brooks v. the City of Charleston, Civ. Action No. 2:87-0645 and Civ. Action No. 2:87-0938, Consent Decree (S.D. W. Va., May 31, 1989).

b) Using African Americans as recruiters and interviewers and in other strategic positions to ensure that African Americans feel included in recruiting efforts;

c) Adopting strategies that overcome the reputation of local hiring practices for excluding minorities and at the same time make African Americans feel they will receive a fair chance;

5) The Governor, the U.S. Commission on Civil Rights, through its State Advisory Committee, and black leadership around the State establish a better communication network.

Reverend Walter Leach President, Raleigh County NAACP

Reverend Walter Leach addressed four issues: 1) internal review and civilian review boards; 2) handling of police misconduct complaints; 3) representation of minorities in the police force; and 4) needed cooperation between minority communities and the police force.

1) The workings of the police internal review boards are not open to public scrutiny. Since the general public knows very little about how well internal reviews work, they assign little credibility. Members of civilian review boards need to be non-partisan members of the community with common sense and experience in order to avoid the appearance or suspicion of collusion of interest. It is alleged that too often board members are "in league with one another" and a couple members tend to control all the votes.

2) Incidents and complaints of police misconduct, Reverend Leach suggested, are sometimes ignored or covered up, whereas they must be handled promptly as they occur. Immediate attention and handling of misconduct complaints will go a long way towards improving the relationship between law enforcement officers and the community.

3) More minorities and women must be recruited, hired, and promoted in law enforcement. Recruitment must be done with a great deal of sensitivity so that minority applicants feel encouraged and are given necessary assistance. The hiring procedure in

Charleston has proven to be effective and should serve as a model. If applicants are hired from both groups by taking so many whites and so many blacks, then African Americans would be proportionately represented on the force. The hiring system is not working fairly in the Beckley area because the numbers are not evenly matched. Beckley has only 4 African Americans in the police department out of 41 police officers⁴ and 1 in the sheriff's department out of 37 deputies.⁵

4) Community assistance and effective law enforcement must work together in a sensible way. When the police come to a predominantly black neighborhood to arrest someone or to take someone out of the community, 7 to 10 cars of white law enforcement officers rush in. Given the appearance of overreaction, the police cannot hope to establish a good relationship with the community. In this connection Reverend Leach had two suggestions for improving community-police relations. First, if drugs or other things are a problem, the police should hold forums to make the community more receptive when they come in. Secondly, white and black policemen should be paired together when going into black communities. The blacks would accept it better, and feel they have a good relationship with police.

Arley R. Johnson Councilman, City of Huntington

Arley Johnson described the poor relationship the Huntington police department has with the minority community and the distrust accorded by the minority community to the police and the judicial system.

He presented the following cases as illustrative of police misconduct, which allegedly is frequent in Huntington:

A few years ago, a young man was arrested by the police. Sometime between his arrest and arrival at the county jail, his ankle and wrist were broken and his face was temporarily disfigured;

About 2 years ago, an off-duty city police officer was riding around with a convicted felon, an assistant prosecutor, and a city attorney. They had been to a few bars, were feeling

4 The Beckley Police Department lost one African American officer in the past year, and now has only three as of April 1992. Officer William Kelly, public information officer, Beckley Police Department, telephone interview, May 4, 1992.

5 As of April 1992, the sheriff's department still had only one African American deputy. Sgt. Donzetta Roush, Raleigh County Sheriff's Department, telephone interview, May 8, 1992.

pretty good, and wanted to have a good time. They drove into the black community, and the police officer fired a round or two over the heads of several blacks, just to scare them. These black residents were just sitting around, congregating and talking.

He added that there are fewer beatings now because of the new police chief. Until very recently, however, when blacks were apprehended by the police, they knew that they were going to be beaten before arriving downtown. The beatings could not be proven unless a black officer was around. He added that the manner in which police used to interrogate minority suspects is also terrible.

He suggested that although not every officer in the Huntington police department is a racist or is beating heads, those who are taint the remaining officers. The police department is a good-old-boy club where their own ranks take care of one another. Even those who get promoted to captain or to leadership positions in the Fraternal Order of Police have been guilty of misconduct. For example, some years back, a drunk police officer was driving around in a police cruiser and wrecked the cruiser, and he was soon promoted.

According to Mr. Johnson, the city has never had a credible internal review of the police department and it never does anything to alleviate the problems. Indeed, some of the police involved in the 1950s beatings are still on the force. Furthermore, the police and their good-old-boy system will intimidate anyone who becomes involved in a case against the police. For example, a prominent attorney and his car were sprayed with bullets one morning after he took a case of alleged police misconduct. Mr. Johnson asserted, "You know and we know that these were police officers. Of course, there was no way to prove it, but that's exactly who did the shooting."⁶

The alleged corruption in Huntington's police department extends to the judicial system, affecting the administration of justice for minority persons in the Huntington area in two ways. First, because of intimidation, it is difficult to find an attorney to take a case against the police. The NAACP could not find anyone to defend the young man with the broken ankle and wrist. Second, many of the elected officials running the municipal and county courts and judi-

cial system are ex-police officers, chiefs, or captains. Mr. Johnson stated, "I would not want that case [against the Huntington police department] going before this county court. I would not feel comfortable. I would not feel safe. I would not feel justice would be done. I would not want to go to the State court. Unless I could get a Federal hearing in a Federal court, I would not want to take it at all, because I know exactly where it would be going. It would be going nowhere."⁷

The police department has no credibility with the community. The police are a source of fear for the community. The community has no rapport with the police and no knowledge of police procedures and available relief. Knowledge about the internal workings of the police department has always been taboo or off record. Anyone who did know about these things was oftentimes an informant, and would get hurt from the other side. It was best not to know. In a small town, everyone knew who the informants were.

The police department in Huntington, Mr. Johnson continued, has not cared what crimes occur in Fairfield West or the black community as long as the crime does not spill out into the white community. As long as blacks were shooting and knifing one another, the police would come and pick up the pieces and clean the street, but the problem is treated as more serious when blacks perpetrate crime in the majority community. Justice was swift in those instances. In the other instances, justice moved very slowly, and that is probably like every other community.

The underrepresentation of minorities on the police force is dismal, and there has never been pressure to have more black officers. The Huntington police department never had more than two or three blacks, perhaps by design. Blacks had trouble in joining the Fraternal Order of Police or any union in the city or State. Unspoken things happened in the FOP when they did not want minorities in those organizations.

Racial discrimination that prevented blacks from joining the police in Huntington has long gone unpunished and ignored. As a result, a barrier of cyni-

⁶ Transcript, p. 26.

⁷ Ibid., pp. 24-25.

cism, distrust, and hate has been built between the minority community and any police officer, especially among young blacks.

Mr. Johnson felt that the civil rights movement and Martin Luther King have not brought any changes in Huntington, West Virginia, and that in spite of Federal legislation, local government and the police never changed.

Larry D. Patterson
Pastor, Ebenezer United Methodist Church
Director, Ebenezer Community Outreach Center, Huntington

According to Larry Patterson, the predominantly black community of Fairfield traditionally has had poor relations with the police. The community and the police department have no respect for each other. For example, Mr. Patterson participated in a police department workshop on race issues. Several police officers participating in the workshop made unprofessional comments, calling him names. He found it significant that such comments were made to him by police officers at a police sponsored workshop on race issues. To him, it was a simple but revealing reflection of the lack of respect the police have for African Americans in Huntington.

He observed that the police commonly treat people with disrespect and such practice is a sure way to erode confidence and destroy trust in the police. The police have little visibility in the community. He stated, "The only time you ever see a police cruiser is when things have cooled down because you had already called them about 20 times."⁸ The presence of a police precinct recently established in the community has improved visibility somewhat. But the police department is small or dwindling, and there is still little response or visibility because of the lack of police officers, he continued.

The police commission has been a problem because of its hiring policies and methods of test administration.

The community and police must work together to establish the visibility, trust, and respect necessary for a good relationship. He further believed that better community-police relations would help the community thrive.

Saribel Reynolds
President, Resident Council of the Washington Square Housing Project, Huntington

Sabriel Reynolds lives in the Washington Square Housing Project, next door to the new Fairfield police precinct. This precinct was established to help overcome the problems of a community that, Ms. Reynolds described, has been a nightmare for years, with frequent disturbances that keep law-abiding citizens up at night.

According to Ms. Reynolds, the new Fairfield police precinct is not working out because the community does not feel that it is their precinct. They feel it was put there to pacify them or shut them up rather than to benefit the black community. Observing that her community needs a precinct that is going to work for them, she added:

Since the precinct has been there, . . . I have had to go downstairs and ask them, "What are you going to do about the riot across the street?" They are right there in the precinct with the blinds closed . . . I said, "You may not see, but you certainly can hear." Finally a couple of units came up and they said, "We are going to do something about it." It is not enough for a precinct to be there. There's got to be something done.

Ms. Reynolds provided the following description of an incident in which she felt she was abused by the police. She thought her experience was illustrative of common police abuse:

On April 20th, that was on Saturday morning at 10:30, as I was turning towards my apartment, . . . an officer [ordered me] to come in [and] sit down. At that point I became very annoyed and angry [because he did not explain what was going on]. He got on his radio . . . I took it from his end of the conversation that he was trying to find someone somewhere else, and I apparently was a suspect . . . When he got off the radio, . . . he said, "I'm not in Northcott Court, am

8 Ibid., p. 33.

9 Ibid., pp. 40-41.

I?" I said, "No, sorry about that, you're in Washington Square." He never apologized to me or said, "Mrs. Reynolds, I made a mistake."

The next week, I left a message at the precinct asking for the name and badge number of the officer that detained me. There was no response. The next day I returned to the precinct, but was told by the attending clerk, "The sergeant in charge says 'you cannot have the information you want.'"¹⁰

Ms. Reynolds stated that to improve community-police relations, the officers must interact with the community, meet the people until they know them by name, not fraternize with them, but greet them respectfully on the streets. Most of the police look right through blacks like they're not even there. Black people hate indifference worse than ignorance. Because when you look at them and do not greet them, that means they're not there. She also pointed out that the precinct needs more officers and one officer to a precinct was not going to do it.

Phil Carter President, Huntington NAACP

According to Phil Carter, poor police-community relations have existed for a long time, dating back to as early as the beginning of this century.¹¹ And the problem lies in the "white supremacy mindset"¹² that exists in Huntington. Mr. Carter claimed that the media, academicians, religious leaders, the criminal justice system, business leadership, public agencies, and most elected public officials and other whites deny that Huntington has a white supremacy mindset. However, the Huntington/Cabell County branch of the NAACP and Councilman Johnson have documented white supremacy, the irrational attacks upon

those opposed to it, and other racist practices in the tristate region. The alleged white supremacist behavior is not only manifest in the local area but is getting worse. People of color, he further stated, are constantly bombarded with shootings and beatings and with incidents like the one that happened to Ms. Reynolds. Protection from crime must be extended to those areas where it is rampant, no matter the color of the people who live there, he concluded.

Reverend Robert Brown Commissioner, Raleigh County Civil Service Commission

According to Reverend Robert Brown, apart from respect, courtesy, and visibility, the problems in police-community relations are with government. The government and the police departments are bureaucratic and aloof; they are not always protective and do not appear to regard serving people as the highest priority. As a remedy, he recommended that the people must be involved in the governing and policing process. The community needs greater representation of black officers and administrators within the police department, sheriff's department, and State police. Greater representation of minority persons would not only increase sensitivity, but create a sense that the community is a part of government and the police department.

He added that the State human rights division's affirmative action program has been incorporated into the Raleigh County sheriff's office plans. Although some have attacked the program, Reverend Brown thought that it was a good program and he would go to court, if necessary, in order to keep it.

¹⁰ Ibid., pp. 36-37.

During the meeting, Huntington Police Chief Gary L. Wade clarified that Ms. Reynolds was entitled to and should have been given the information. Ibid., p. 38.

¹¹ As a supporting document, Mr. Carter submitted a 26-page compilation of 50 newspaper articles from *The Huntington Advertiser* for the period from 1902 to 1905. This document, compiled by Nelson L. Barnett, Jr., chronologically reproduces articles dealing with the police and blacks. However, it does not provide any analysis of those specific aspects of the listed incidents that reflect poor police-community relations or police misconduct.

Interested readers should consult a 2-volume, 812-page compilation, Nelson L. Barnett, Jr., *Past—Imperfect: A Compilation of News Items From Huntington, W. Va. Newspapers*. Vol. 1 covers the 1872-1876 and 1895-1900 periods and is dated 1988, while vol. 2, dated 1989, covers 1901-1904.

¹² By the white supremacy mindset, Mr. Carter refers to the "white power system consisting of patterns of perceptions, actions and emotional responses, expressed in all areas of [human] activity . . . with the ultimate purpose of preventing white genetic annihilation." Transcript, p. 44.

Exchange

Following the panel presentation, the Committee members and the audience asked questions and made comments to which the panelists responded. This exchange led to elaborations on four specific issues: 1) incidents of alleged police misconduct; 2) allegation of racism and corruption; 3) call for a Federal investigation; and 4) underrepresentation of minorities in the police force.

1) Alleged Police Misconduct

Many allegations of police misconduct made during the discussion dealt with perceived discrimination against blacks and their community, disrespectful or unprofessional treatment of minority persons by police, and the use of excessive force against them. In addition, it was charged that police detain black people more often than whites, that crimes against blacks are not investigated promptly and are seldom solved, and that blacks are not treated as credible witnesses to crimes. It was also alleged that the media and the police collude to pacify and control the black community through misrepresentation. The following incidents were presented in support of these allegations.

Incident 1: The Fawn Oakley Shooting

In the evening of December 13, 1990, shots were fired from a car driving by the People's Choice Lounge, a black night club. Three out of approximately 60 people at the club were shot; two of them were wounded and one, Fawn Oakley, was killed. Less than an hour before the incident, the police were clearing the streets. Several patrol cars were picking up young blacks on the street and taking them downtown, but when the incident happened, not one patrol car could be found in the area.

Twenty to 30 black eyewitnesses stated a group of white males in a white car did the shooting, but one white witness had a different recollection. The investigating officers took the word of the white person over the 20 or more black witnesses, and the police investigated and publicly characterized the incident as a black-on-black crime. Only when a preponderance of evidence showed that what the white witness

allegedly saw could not have happened, did the Huntington police department state on January 19, 1991, "We now think a group of whites in a '60 white Chevy Nova probably did it." But this correction came more than a month after the incident.

The newspaper reported that the incident was a black-on-black crime, ignoring the black community's witness statement that whites did the shooting. The NAACP took the witnesses and the wounded to the executive office of the newspaper to make sure that the truth came out. Despite their pleas, the reporter did not focus on the whites committing the drive-by shooting.

Since the incident, the club has been forced to close, and the police have not yet found the drive-by shooters, or suspects, who shot at innocent people. Several forum participants alleged that the case remains unsolved because the victims were blacks.

Gary L. Wade, chief of the Huntington police, later commented that the Fawn Oakley shooting was a disaster, a tragedy in which the police "screwed it up."¹³ He claimed, "The following day, not a month later, I came out and apologized to those young men. It wasn't a month later. It was the next day I apologized to them."¹⁴ He acknowledged that police are still working on the case and promised a resolution to the case, saying, "I will do everything possible for this community to solve that crime."¹⁵

Responding to the allegations about the press, David Rogers, the reporter from the *Herald Dispatch* who covered the Fawn Oakley shooting, said his story stated that the witnesses saw three or more white men drive by in a sixties model white car and fire at the bar, and the story ran approximately 2 days after the shooting. He also stated that his executive editor, Zack Binkley, met with the NAACP board members and some of the witnesses and saw no problem with the story he wrote. The media, he said, did not cover it up in any way.¹⁶

Incident 2:

In the fall of 1990, the Huntington police snatched Joe Swenson, a black man, out of his car, threw him to the ground, and held a gun to his head, but did not arrest him. The person narrating this incident ob-

13 Ibid., pp. 120-21.

14 Ibid., p. 121.

15 Ibid.

16 Ibid., p. 100.

served that "he certainly had to be a bad man and bad criminal to do all that to him," but instead he was let go, and was not arrested.¹⁷

Incident 3:

Recently the narrator's son, a black youth, was moving to Detroit. He and another young man were loading bags of clothes into the trunk of an El Dorado car with Michigan license plates. Someone must have called the police, because soon the police surrounded the son and his friend in the driveway and had them splayed across the car. Police were behind them holding machine guns on these two black youths just because one was a young African American driving an El Dorado with an out-of-State license. The police officers were granted permission to search the car, and they did. One policeman said they had a directive to look for an out-of-State car from either Columbus or Michigan, but the description of the car that they gave did not come close to matching the El Dorado. The police then said they had permission to arrest anyone crossing State lines in out-of-State cars. At about that time, a white man drove by in a car with an out-of-State Ohio plate. "I said, 'why did you not stop him? He had an out-of-State license. Go stop him right now.'" Of course, the police did nothing of the sort suggested.¹⁸

In addition, the narrator also observed that police had a tendency to stop black youths whether there was justification or not. They would hold guns at their heads and bring about 15 patrol cars. When someone from the black community called them for a legitimate reason, however, the police did not appear for an hour or longer. Sometimes, even with repeated calling, they did not show up at all.¹⁹

Incident 4:

At a pro-war [the Gulf war] rally held in downtown Huntington early this year, a white male²⁰ was attacked by participants. The victim claimed that a

Huntington police officer was watching when he was attacked. Two members of his group witnessed both the attack and the officer watching the attack. When the victim asked the officer if he was going to do anything about it, he denied seeing the attack. The officer refused to give his name or badge number. He joined the crowd and became part of the people supporting the war. His behavior seemed to indicate that he was on the pro-war side, and he appeared to be participating in the rally. When some people were "spitting in the faces of some of the people . . . opposing the war, he was patting them on the back saying he understood where they were coming from. He did nothing to enforce our right to protest. As a matter of fact, he seemed to be encouraging the people to attack us."²¹

After the incident, the victim continued to have problems with the magistrate; the officer did not want to name the person who attacked the victim so a warrant could be prepared. The victim had to "call the sheriff's department and ask them to call the Huntington police to ask the officer to come in and give him the name."²² Adding that his campus peace group, mostly white, has had continuing problems with the Huntington police, the victim noted that he feels there is "a good bit of discrimination [because] some of us have long hair" or hold a philosophy opposed to the Gulf war.²³

2) Allegations of Racism and Corruption

One panelist believed that these police-community problems, if allowed to continue, will contribute to festering resentment and hatred by blacks against the police and such negative elements will be destructive to the black community itself. The underlying cause, in his opinion, is racism. The Huntington judicial system and the Huntington police department both "reflect the Huntington community, . . . and there is

17 Ibid., pp. 74-75.

18 Ibid., pp. 83-85.

19 Ibid., p. 85.

20 David McGee, a white student at Marshall University in Huntington, is an executive board member of the Huntington NAACP and a member of a peace group that has outspokenly opposed the war with Iraq. He and his friends in the peace group wear long hair and beards and are well known to the Huntington police.

21 Ibid., p. 57.

22 Ibid., p. 58.

23 Ibid., p. 58.

definitely a problem of racism in this city."²⁴ The juries, the judges, and the prosecutors all reflect the same problem. All blacks in Huntington are presumed to know each other or be related to one another, and "there's never ever a black on a jury" when blacks are tried for murder or a capital offense in Huntington.²⁵

In addition to the disparate treatment of blacks, the panelist continued, the system in Huntington is "corrupt. In my opinion, it is so corrupt that any local attorney who takes on any of these cases [against the police or the establishment], as far as his local practice is concerned, it's null and void. He's through, or she's through. That's the reason why they are so hesitant to take on the Fraternal Order of Police."²⁶ According to this source, the police internal affairs review board is ineffectual in improving the situation. It is alleged:

For all intents and purposes, there is no internal affairs . . . They [are] really there to make sure their own members stay out of trouble. And if they were in trouble, to make sure they didn't have any punishment, . . . they didn't get kicked off the force, . . . they didn't get fined, . . . [or] they didn't get taken to court.²⁷

3) Call for a Federal Investigation

Based on his observations of racism and corruption, the panelist recommended a "sweeping Federal investigation of the whole police and judicial process of Cabell County, including the city of Huntington."²⁸ He believed that the system "is marred be-

yond repair . . . Until the Federal Government at the judicial level with enforcement power comes in a strong way into this county, into this city . . . you are going to see some bandages here and there, just kind of prolonging the process."²⁹ He also felt the need for the State legislature and politicians to be more involved.³⁰ Another panelist suggested that the Governor should demonstrate leadership on race issues in the administration of justice and make strong recommendations to the local leadership on this matter.³¹

4) Underrepresentation of Minorities on the Charleston Police Force and the "Consent Decree"

Several panelists and members of the audience pointed out that the presence of relatively few minorities on the police force and particularly in decision-making positions contribute to the alleged police insensitivity and misconduct. In discussing the issue of underrepresentation of minorities in the law enforcement field, a consent decree entered into by the city of Charleston with the Federal district court, was mentioned prominently.

In response to the request for more details on the decree, the following account was provided.³² The suit, *Brooks v. the City of Charleston*, was originally filed in Federal court because of the lack of African Americans in the Charleston City Police Department and the lack of upward mobility of those who are on board. The resulting consent decree, entered into on

24 Ibid., pp. 79-80.

25 Ibid., p. 80.

26 Ibid., p. 92.

27 Ibid., p. 93.

Regarding the basis for these allegations, the panelist asserted:

"I know that beyond a shadow of a doubt. You can look in Huntington, just the judicial record itself in the last 25 years, and you would have a preponderance of the evidence to do anything you wanted to as far as the judicial system. There's things going on presently within the Huntington police department and also the judicial system in Cabell County that would prove it . . . I live here. I work here. I play here when I can, and I know what I'm talking about." (Ibid., p. 94)

28 Ibid., p. 90.

29 Ibid.

30 Ibid.

31 Ibid., pp. 94-95.

32 This account is based on comments provided by Dallas Staples, chief of the Charleston City Police Department, and Stephen Starks, editor of the *Beacon Digest*.

May 31, 1989,³³ provided that the city reconsider its recruitment and selection procedures, including the test and interview given to the candidates.

The reevaluation stipulated in the consent decree brought about several changes: 1) a dual hiring list for the Charleston police force, one for black candidates and the other for white candidates; 2) adopting creative recruitment tactics such as using black recruiters to make black candidates feel they would get a fairer chance to be hired than in the past; 3) offering classes to prepare for the test; 4) restructuring the interview process to reduce potential discriminatory barriers. As a result, the number of black officers on the Charleston police force increased from 8 in 1989 to 19 in 1991.

In Charleston, the Fraternal Order of Police supported the decree although some of the members did not. Individual members of the police force who did

not like the decree would do anything to undercut it. For example, some officers protested the decree when a few black officers were hired but did not make it through the probationary period. But the decree has withstood this internal attack.

One panelist concluded that the decree is an effective instrument for minorities to gain rightful opportunities. But it should be the last resort, which will be preempted, if executives (i.e., governors and mayors) exert strong leadership and create a political climate of assertive equal employment opportunity posture. He added an observation that:

I think that too many times administrators and executives and elected officials tend not to want to do things or take extreme measures because they fear "we're going to get sued." But my reply to that is, "You didn't fear suits from Afro-Americans when you were discriminating [against them]."³⁴

³³ Brooks v. the City of Charleston, Civ. Action No. 2:87-0645 and Civ. Action 2:87-0938, Consent Decree (S.D. W.Va., May 31, 1989).

³⁴ Transcript, p. 62.

Panel Two: Law Enforcement Officials

The second session consisted of presentations from law enforcement officials, including the State police, local law enforcement agencies, and a black law enforcement association, followed by a question and answer period.

Corporal Dale Humphreys Personnel Director and Affirmative Action Officer, West Virginia State Police Department

Officer Dale Humphreys described the efforts of the West Virginia State police to establish better relations between the police force and the community and to improve the hiring of minorities and women.

The West Virginia State Police Department believes in building a positive and continuing relationship with the black community. Consistent with this approach, officers are encouraged to attend events in the community at public schools and churches. Officer Humphreys stated that he will approve attendance for any officer who contacts him about such events. He tries to send a black and/or female officer to all job fairs and community events that request police participation, and, if he can, he attends also.

The State police department has also taken an aggressive approach to employing minorities and women. It has adopted a new affirmative action program that has been approved by the U.S. Equal Employment Opportunity Commission. According to this plan, every time the department recruits for a class, it contacts a long list of agencies throughout the State and the eastern United States. The list includes all of the EEOC offices, NAACP offices, Civil Liberties Union chapters, and black community organizations. Although these notices are sent out at least 2 months before a testing date, allowing plenty of time for a response, Officer Humphreys has not heard from many people. He said that he is willing to listen to anything that might help recruit qualified minority applicants and encouraged members of minority groups to apply. He mentioned that, in the hope of a more effective advertisement, two black officers are doing the recruiting, and that TV commercials use a black officer and a female officer.

Officer Humphreys pointed out three factors that might constrain the recruiting of minorities and women. First, the State police department will not lower its standards for members of any group, whether it is a protected group or not. In the 5 years that he has been in the personnel office, he added, every minority applicant who has passed the test has been accepted. Second, the department must have vacancies before it can make new hires. Third, the legislature must provide money to start a class. Although the department currently has between 40 to 50 vacancies, the department cannot recruit because of the lack of funds.

Gary L. Wade Chief, Huntington City Police Department

Gary L. Wade, who has been the police chief for 6 months, observed that Huntington seems untouched by events in the 1960s and by the last 30 years of advances in civil rights. He stated that his goal is to institute, in the Huntington police department, law enforcement procedures that are representative of prevailing practices throughout the country. To achieve this objective, he said, he needs support from his police department, the community, academia, and the State civil service commission. It is not going to be accomplished in 1 month or 6 months, and there needs to be a long-term commitment to the goal.

State statutes govern the procedures for police internal review boards and civilian review boards. Although Chief Wade may want to do certain things differently, he has to follow State guidelines in setting up review boards. Without going into details, he noted that one of his recent decisions (although he followed State statutes) has been challenged and is likely to go to the State supreme court to seek statutory clarification. Because he sees the need for certain statutory changes, he hopes to establish a lobby in the State Capitol, in addition to the existing lobby through the Fraternal Order of Police.

The procedure for filing a complaint of alleged police misconduct, Chief Wade said, is to come to the police department and tell us your story. "If you don't feel satisfaction from someone else, come see me."³⁵ Any citizen with a complaint should come and

seem him directly when not satisfied with the internal review procedures. He is confident that the process for handling internal affairs can work, but if it does not, he has no objections to an outside agency coming in and looking at the Huntington police department or at a specific complaint. He reminded the audience that anyone not happy with what the police chief or the Huntington police department does can go to the Civil Rights Division of the U.S. Department of Justice. This form of outside review has been in place for quite some time and he encourages people to use that avenue if they do not have confidence in the Huntington police department.

Law enforcement across the country is going through an accreditation process both to establish nationwide standards for hiring and promotions and to avoid becoming regionalized. The generalized, nationwide standards are intended to be fair for everyone, not just certain groups. Huntington is in the process of adopting nationally used processes for the recruitment, hiring, and promotion of minority and female officers. The Huntington police department has proposed a new hiring and promotion process to the police civil service commission.³⁶

According to Chief Wade, West Virginia's judicial system has "gotten into the middle of the hiring and promotional process" of the Huntington police as it has in the Beckley area in the past.³⁷ As police administrator, he "take[s] offense at that," but such is the system in practice before he came to Huntington. He hopes that the State legislature will be persuaded to make changes in the hiring and promotion of police officers in West Virginia. As for the hiring of new recruits, he is working on a hiring procedure that will be fair and reflective of the procedures adopted by law enforcement across the country.

The Huntington police department has hardly "scratched the surface" on multicultural training. According to Chief Wade, it has yet to begin a serious agenda for promoting multicultural sensitivity among its law enforcement officers. Multicultural sensitivity, he believes, begins with recruitment, selection, and training in the police academies. He promised to start such training with the next class.

Annual inservice training should incorporate exercises on multicultural sensitivity. He plans sensitivity training for his current police officers and supervisors but feels it will be more beneficial with the new ones starting out. It was noted that the process of attrition or elimination will also raise the multicultural sensitivity of the police force.

Community assistance is necessary for effective law enforcement and different groups are offering assistance in Huntington. Although there is a lot of dialogue between law enforcement representatives and the community, he believed that neither side listens very well. The apparent gap, however, between community and police perceptions is a matter of serious concern. He stated for the record that several notions regarding the Huntington police are factually false. Contrary to the general perception, the Huntington police department does not have a "Miami Vice attitude," the Huntington police officer does not carry a machine gun in his/her car, and at a slight provocation 20 police cars do not swarm and surround the suspects. Machine guns are not in the police cars but locked in a safe in his office. The Huntington police department only has nine cars on the street. He ended his presentation with a plea, "Let's not exaggerate what took place . . . I know there are problems and I want to work on them."³⁸

Dallas Staples Chief, Charleston City Police Department

Chief Dallas Staples discussed three topics in his presentation: 1) recruitment of minorities, 2) police internal reviews, and 3) police-community relations.

1) Recruitment

Charleston's recruitment of African Americans into law enforcement was successful because the consent decree provided a strong impetus. Elected officials supported the recruitment of blacks despite some protests that the decree-bound recruitment constituted reverse discrimination. Chief Staples believed that a Federal consent decree, though effective, is not necessary if the top government officials will provide strong leadership supporting minority recruitment

35 Ibid., p. 115.

36 It was pointed out that on the day of the forum an outside consulting group was in Huntington to evaluate the proposal. Ibid., p. 118.

37 Ibid., p. 117.

38 Ibid., p. 122.

and follow through on their commitment. Several specific procedures were deemed helpful to Charleston's successful recruitment:

- a) Local leaders sent letters to various groups asking for their assistance;
- b) It was publicized that African Americans could ask to be on a priority hiring list;
- c) The assistance of the black community was solicited and used to develop an effective recruiting plan;
- d) The city spelled out details on how it was going to be an equal opportunity employer, instead of merely making an empty statement, "We are an Equal Opportunity Employer;"
- e) Black officers did the recruiting with the support of local authorities such as the county commissioner, the sheriff and the mayor.

Law enforcement agencies across the country frequently use two common excuses to avoid hiring minorities and women. One says that the standards have to be lowered to accommodate minority applicants. Staples believed that it is a "famous copout that law enforcement agencies across the country use,"³⁹ and what needs to be done is not lowering the standards but reevaluating and revising selection procedures or instruments to make them culturally unbiased, job pertinent, and predictive of actual performance as police officers. Another excuse is to say that qualified blacks choose to seek employment elsewhere other than the law enforcement field. Qualified whites seek employment in other fields as well, and there is nothing unusual about qualified blacks seeking better jobs. If the reasoning is that those blacks left for law enforcement jobs are less qualified to become police officers, it should be remembered, the same argument would apply to whites too, i.e., less qualified whites are left for law enforcement jobs. Attention should be directed towards making law enforcement jobs more attractive and appealing so that qualified applicants, both whites and blacks, would apply.

Chief Staples made two suggestions that may improve the selection procedures: 1) making selection procedures, including standardized tests, free of cultural bias and more pertinent to and predictable of job performance, and 2) including the Afro-Ameri-

can community in the testing process and in developing and monitoring a recruitment and hiring plan. A continuous involvement of the African American community and officers in developing recruitment and promotion plans will go a long way towards eliminating many problems.

2) Police Internal Review

Chief Staples believed that the officer(s), against whom a complaint has been filed, should have a board of peers that reviews the case and makes recommendations to the police chief. The chief of police would have the authority to accept the board's recommendation or make his own decision.

3) Police-Community Relations

Chief Staples believed that community assistance and partnership with the community, particularly the minority community, are essential ingredients for effective police-community relations. Law enforcement has to become part of the community that it serves, involve the community, and utilize its input earnestly. The police department must forge partnerships to identify the problems and develop strategies to solve them. Plans are more effective when the communities have participated in developing them. Sometimes, citizen and youth advisory boards can be of enormous help in addressing drug and crime problems.

The Charleston police department has established a police precinct in a public housing community that used to be plagued with safety, drug, and crime problems. The precinct has been very effective, serving as a catalyst in restoring a sense of community among the residents, nurturing a growing feeling of partnership with the police, and fostering a feeling of general safety and peace in the neighborhood. The officers at the precinct know everyone in that community, and they are always there talking to people. Chief Staples cited the operation of this precinct as an example of the community-style policing that the Charleston department is currently developing with the help of communities throughout the city.

Chief Staples highlighted three aspects of the Charleston police department and its operation:

1. He demands that each of his command officers, captains, lieutenants, and sergeants, spend 2 hours a day on the streets in uniform getting to know the business and residential communities and the people.

³⁹ Ibid., p. 126.

The officers and staff know everyone in the community. They talk to the people and tell the youths they will be back;

2. The Charleston police department relies upon community assistance to develop its community-style policing. It solicits the help of community organizations. For example, the Women's League of Voters was asked to chair a citizen's advisory board to help develop and implement a community-style policing philosophy. This 4- to 5-year plan will continue to use community assistance; and

3. To identify potential problems in further improving police-community relations, the Charleston police department is conducting two surveys. The first will survey police officers regarding how they view their jobs. It will "clear up some perception gaps that . . . exist in the police department,"⁴⁰ and ensure that police officers view their duties and obligations consistent with the official version. The second one will focus on the community to "find out where the perception gaps lie in the community. How does the community perceive what law enforcement should be doing?"⁴¹ It will help the police find out how perceptions in the community differ from those in the police department, and to develop remedial or needed programs.

R. Michael Mangum Sheriff, Raleigh County.

Sheriff Michael Mangum discussed recruitment/promotion and sensitivity training. Every county in West Virginia must follow the State civil service code in the recruitment and promotion of officers for the sheriff's office. It is a misdemeanor not to follow the State code in hiring and promotion.⁴²

The code specifies that applicants must take the civil service examination; applicants' names must appear on a certified list of qualified applicants; and the sheriff must choose one of the top three names on the certified list. If there is a second vacancy, one more name is added to the list, giving the selecting official the same two just passed over plus one additional name. This rigid procedure means that a mi-

nority applicant may have passed the examination, but unless he or she appears in the top three on the list, that applicant will not and cannot be hired.

As an example of the binding nature of the State code on hiring, the following episode was offered. Once Sheriff Mangum hired a highly qualified, black deputy with a master's degree in criminal justice. The president of the civil service commission, however, filed a criminal charge against Sheriff Mangum for violating the State code. Sheriff Mangum was forced to post bond and appear at a hearing. Although he was eventually cleared of any wrongdoing, Sheriff Mangum resented being perceived by the general public as well as the commissioner to have done something wrong.

Pressure from administrative boards, local groups, or advocacy groups cannot change this procedure, because it is a misdemeanor not to follow the State law on hiring. He recommended that the State code regarding the hiring and promotion of police officers be reexamined in light of the underrepresentation of minorities and women in law enforcement.

Promotions are handled the same way—the applicants must take the test and be on the certified list. The civil service code, however, has another flaw for promotions. The contents of the tests are the same, whether it is a test to promote a captain, lieutenant, sergeant, or a corporal. Sheriff Mangum believed a testing system should demand more from a captain than from a corporal because the position of captain requires greater responsibility. There should be different tests for different ranks. Needless to say, he felt strongly that this promotional aspect of the State code should be evaluated and modified as needed. The civil service commission, the community, and advocacy groups, he recommended, should all contact State legislators to reexamine the West Virginia civil service code to eliminate obstacles to the hiring and promotion of minorities and women.

The civilian ranks of the sheriff's department are not subject to the same code and civil service examination. Sheriff Mangum is pleased with his success in hiring minorities and women for civilian positions. Many female persons are working in the tax office in very good jobs with regular hours, all of the benefits,

⁴⁰ *Ibid.*, p. 131.

⁴¹ *Ibid.*

⁴² W. Va. Code Sec. 7-14-18.

and fairly good pay. He has increased the number of blacks in that office until he now has five white and five black females. He attributed his success to the exemption of civilian ranks from the State code.

According to Sheriff Mangum, the civil service requirement is not his only problem in hiring minorities. In particular, he has had trouble recruiting black deputies. Sheriff Mangum hired one black deputy who backed out of the job the night before he reported to work because, as a police officer, he felt threatened in his own neighborhood. Another deputy he hired decided to take another job with the city because of better benefits. Thus, he has one black patrolman rather than the five or six he would like to have working in Raleigh County.

Based on his 7-year experience of teaching police-community relations at community colleges, Sheriff Mangum stated that training programs do try to teach officers multicultural sensitivity, but more sensitivity training is needed. Many young officers have never interacted with black people, and they do not realize that, just like whites, minority persons have pride and feelings, they are capable of feeling insulted and hurt, and they have the same problems of trying to earn a living and feed their families. Because of lack of interactive exposure, many young officers appear to be apprehensive of blacks, particularly black males. They must be trained that they do not have to be any more afraid of a black person than a white person. Sensitivity training helps prevent overreaction and promote understanding.

Recruits receive 14 weeks of basic training, but over the next 20 years of their career, they receive only 8 hours of inservice training each year. Sheriff Mangum believed policemen should receive more training throughout their careers to make sure that they understand what being a police officer is all about. In West Virginia, law enforcement officers do about 85 percent service and 15 percent law enforcement, which underscores the importance of multiracial sensitivity training. Such training should be strengthened both during the basic training and in subsequent yearly training.

Jerry Hutchinson Jail Administrator, Cabell County

Representing the sheriff of Cabell County, Jerry Hutchinson made the following points:

1) During his 2 years in office, the sheriff has put into practice a new policy on the use of force. This policy requires that any incident in the jail involving the use of force is reported and investigated immediately, hopefully the same day, without waiting for a complaint to be filed. "We try to [do] this on a daily basis [before you come to us to complain]." ⁴³

2) An affirmative action program has been established and is run by a black female lieutenant.

3) His agency is always recruiting, although it is difficult to attract applicants with salaries for correctional officers starting at \$900 a month. He sent out about 100 letters to the black community asking for job applicants. Applicants are required to pass the State civil service examination before they are hired.

4) Regarding the State civil service examination itself, Mr. Hutchinson said "I'm sure there can probably be improvements on it. But it has worked . . . and the upward mobility has been good." ⁴⁴ At present, two of the three shift commanders are females, and one of them is a black female. An assistant shift commander on the night shift is a black male.

5) The sheriff is trying to run a good jail. As is commonly known, the security of the jail has been tightened considerably. Problems such as escapes that used to plague the jail in Cabell County no longer exist.

Sherwood Brown President, Black Law Enforcement Community of West Virginia (WV BLUE)

Officer Sherwood Brown addressed the recruitment and hiring of minorities and women, the harassment black officers encounter after they become sworn law enforcement officers, and the lack of promotional mobility for black officers. He shared his experience of police-community relations work to illustrate how the presence of black officers can contribute to better community policing.

⁴³ Transcript, p. 132.

⁴⁴ Ibid., p. 133.

According to Officer Brown, the State police department has 545 troopers, only 10 of whom are black, and there is only 1 black trooper of rank, a sergeant. There are 10 white females of rank, but no black female. Such a state of underrepresentation, in his estimation, is a disgrace for the State police.

In other local law enforcement agencies blacks are also underrepresented. The Beckley police department has 32 officers, but only 3 are blacks. There are no black females and no blacks of rank. The Raleigh County Sheriff's Department has fewer blacks than it has had in the last 15 years. In 1968, when other sheriffs said they were having a hard time finding black people to hire as police officers, then-Sheriff Ziney French brought in four black officers. But since Sheriff French left office, the number of black officers has dwindled and now there is only one black officer.

When seeking employment in law enforcement, Officer Brown noted, blacks first have to pass the test and other standards. He claimed that these screening devices create artificial barriers against black candidates. Even if they pass the test, they are sometimes denied the opportunity in some other way. A case in point is the pending suit filed in Federal court by the West Virginia NAACP against the State police department.⁴⁵ In this case, the plaintiff was a young black candidate who took the test and earned "probably . . . the highest score anybody ever made with the State police,"⁴⁶ but was still turned down on the aptitude test.

The lack of promotional opportunity is a serious problem: it not only affects adversely the well-being of those black officers currently on board, but becomes an obstacle to recruiting strong black candidates. There are many officers in the State police, the city police, and the sheriff's department who have been on the force for "17 years, yet still either can't pass a promotion examination or were bypassed on promotions."⁴⁷ According to Officer Brown, "90 percent of the black officers who have been promoted to lieutenant and sergeant had to go through

the court system. Same thing with Charleston, had to go to court to have it done, forced . . . It was forced on the department to go ahead and promote blacks into the position they should be at."⁴⁸ It is only natural, then, that black officers with college degrees do not stay long in West Virginia law enforcement. This lack of opportunity for blacks to advance certainly discourages promising black candidates and those with a college education from wanting to become police officers. In addition, the salary for law enforcement officers in West Virginia is not competitive, forcing the State as a whole to lose out.

For black police officers, getting hired is not the last hurdle. According to Officer Brown, they face the additional obstacle of general harassment within their department, which is debilitating. Officer Brown recounted his personal experience as an illustration of the harassment and hostility that blacks face in being police officers. During the past 17 years of his service with the Raleigh County Sheriff's Department, he has always been apprehensive and fearful of being set up by the department when on patrol and answering calls. He has felt that he has been the target of special scrutiny, and that his department would try to get rid of him even for a small mistake.

Seventeen years ago Officer Brown was hired as one of the first deputies under the then new civil service system. As the newest black police officer he was assigned to the jail and remained there for a long time because his sheriff said that, as long as he was sheriff, Officer Brown would remain in the jail, and because the sheriff felt there were more black officers than needed. When the civil service commission asked the sheriff why Officer Brown was not a patrolman, the sheriff replied, "Well, I just don't have anywhere to work [him],"⁴⁹ apparently because black officers were already assigned to black neighborhoods and he believed a black could not work in the white community. The civil service commission

45 *Ross v. Bucklew*, *supra* note 2.

46 Transcript, p. 144.

47 *Ibid.*, p. 145.

48 *Ibid.*, 147.

49 *Ibid.*, p. 148.

forced the sheriff to put Officer Brown on the road as a patrolman and he was assigned to an all-white community.

Officer Brown described another incident, more vicious in nature, a setup by the sheriff to get rid of him:

I don't know how [the citizens] got word of what was going to happen. But the basic setup was that they were going to dispatch me to a trailer with women in it, and when I answered the complaint and left, one of the women there was going to say maybe I tried to rape her or something like that . . . Each time that I was sent on a complaint of that type, I would wait for a backup, and the [setup couldn't work] because I had a fellow police officer there . . . The sheriff tried to get one of the fellow officers to be in the conspiracy with him to set me up and also agree with the woman . . . When he refused to do it, then the whole thing fell through.⁵⁰

In the late 1970s Officer Brown filed a complaint with the West Virginia Human Rights Commission regarding lack of promotions and harassment. He settled the complaint out of court on the condition that the civil service commission institute an affirmative action plan. The human rights commission drew up a plan that was accepted for implementation by the civil service commission. The plan requires the sheriff to hire 9 percent blacks in his department. If he has 32 or 34 deputies now, he has to have 3 black deputies. The plan also provides for dismissal of any ranking officer who is found guilty of harassing any other officer, black or otherwise. If an officer is found guilty, either the commission or the sheriff can dismiss him. The civil service commission is about to remove that clause from their rules and regulations, and Officer Brown is working with the civil service commission to retain it.

Regarding police-community relations, Officer Brown is convinced that officers should know the people. As a routine, he "stopped at everyone on the road and at every store until he got to know the people." He was then able to establish a good relationship with those people to the point where they would warn him even when his own department was setting him up. Two-man cars with blacks and whites working together are not only an effective ve-

hicle of communication and understanding, but particularly useful in easing white officers' generalized fear of dealing with blacks. Using pairs of black and white officers coupled with a community-policing approach will improve the quality of relationships between the black community and police officers working in that community. He recalled an episode from the days when he began working with a white officer:

I worked with a white deputy for 4 years . . . I never will forget the first complaint we answered [in the black community]—he was nervous, afraid he was going to have trouble. And then when he got in there and we got to meet the people and talk to the people, . . . they agreed to help him any time he had a problem . . . and they would come out and give him all the support he needed . . . [Afterwards] he said, "I didn't know these people would do that." . . . It just took that one instance where he could go into the black community with another black officer, felt free to go ahead and do his job and not to have any fear.⁵¹

Exchange

The panel presentations were followed by an exchange between Committee members, panelists, and the audience. This exchange clarified the following six issues: 1) multicultural sensitivity training; 2) the certification list and recruitment; 3) deficiencies in the selection tests; 4) deficiencies in other selection criteria; 5) credibility with the minority community; and 6) procedures for filing a complaint.

1) Multicultural Sensitivity Training

Three facets of this topic were elaborated upon.

i) Individuals from the community must be involved in sensitivity training. The training would benefit from using blacks who are everyday people with negative attitudes and perceptions of law enforcement. The qualifications of community members ought to be a public concern because oftentimes police departments call upon high profile blacks to serve on, or recommend others for, community committees. Sometimes the ones with high profiles do not represent the general public very well. Police departments should consider both soliciting recommendations from young people who hang out on the street and then inviting those recommended to be on the committee. An essential qualification to serve on

⁵⁰ Ibid., p. 186.

⁵¹ Ibid., p. 149.

community committees is not so much social visibility, but knowledge about the communities in which they reside in;

ii) Making new officers sensitive to other cultures would be very difficult because the system in which police officers and departments operate are “already rotten.”⁵² For multicultural sensitivity training to be effective, the community, law enforcement, and the court system all need to be changed. The civil service commission and the human rights commission might be able to bring about some changes, although commission members are selected to maintain the status quo. People holding views not consistent with the mainstream majority are not appointed to those commissions; and

iii) Too few of Huntington’s majority community—businessmen and politicians who control the money and the larger social institutions—are involved with the process of improving police and community relations. Although the black community and many people in the police community are involved, no significant changes will come about until more of the majority community becomes seriously involved.

2) The Certification List and Recruitment

The selecting officials are required by the State code to choose from the top three names on the certification list. However, sometimes they manipulate the list and hire whomever they want. It was alleged that the selecting officials skip over qualified blacks and reach the whites they want. As an example, one participant recounted an incident that took place in Raleigh County. Black candidates were successfully trained for the test, making it to the top eight on the list. The sheriff, however, did not “hire anybody until the list ran out, because the people on the top of the list were black. He didn’t want any black persons, so he let the list run out and then called for another test.”⁵³

52 Ibid., p. 158.

53 Ibid., p. 191.

54 Ibid., p. 173.

55 Ibid., pp. 174-76.

56 In pointing out the misplaced overemphasis on test scores in hiring and promotions, Officer Brown recalled that a Mark Harper just barely passed the test when he was hired, but he was one of the finest officers he ever worked with in the Raleigh County Sheriff’s Department. Ibid., p. 171.

Minority communities, it was pointed out, are frequently uninformed of when the tests are given. There was a strong consensus that the recruitment procedure should include visible public announcements placed in minority communities well in advance of the testing time and free workshops for those who want to prepare themselves for the test.

3) Deficiencies in the Test

Captain Casey James of the Charleston City Police Department, who rose from the rank of patrolman to captain over a period of 27 years by taking the civil service examination several times, observed that over the years the test has evolved and gradually lost its relevance to day-to-day policing. Originally, it was a test of basic knowledge police officers need on the job, but now it is more of an academic examination geared towards people with serious knowledge about law enforcement, people who have degrees in law enforcement. If the examination were revised to cover the basic knowledge police need on the job, the standards would not have to be lowered to let minority candidates into the police department. He also asserted that the command instructor, knowing that only 5 or 6 percent of those within the police department would pass, raised the standards of the police promotion examination to exclude most blacks.⁵⁴

The test contents frequently are not germane to the locale where officers are tested and will be working. For example, the Charleston police chief recalled that one question asked the results of a study conducted in Rochester, and he neither knew that Rochester did such a study nor what it was about. He felt that the question was irrelevant and had nothing to do with being an effective police officer in West Virginia. In addition, the validity of the test and the use of test scores need to be examined carefully.⁵⁵ For example, how well do the test scores predict the on-the-job performance of police officers in West Virginia?⁵⁶ Does the test have a disparate impact on different groups such as males, females, blacks,

Hispanics, and Asian Americans? In making selections, what weight should be given to the test score relative to other selection criteria?⁵⁷

4) Deficiencies in Other Selection Criteria

Critical comments were made on other selection criteria such as physical fitness and psychological appraisal. One black applicant with a master's degree in business and finance was rejected by the West Virginia State police because his body fat was 2 percent higher than the standard set by the department of public safety. The irony of this physical fitness standard is that, like most others, it is only for hiring. Once one is hired and has gone through the academy, they don't care and "you can walk around as heavy as you want."⁵⁸ Another black applicant was initially rejected by a white female psychologist on the grounds that the applicant was antisocial. The interviewer was an upper class, white female while the applicant was a black from the sugar cane area in Florida. Cultural and class differences could have easily led to a misdiagnosis or appraisal. This applicant, however, finally ended up graduating second from the academy.⁵⁹

The West Virginia civil service code sometimes acts as an employment barrier. The code was enacted over 20 years ago, reflecting the attitudes and thinking that were prevalent then, namely, that law enforcement jobs were reserved for white males only. For this reason it is not realistic to expect white females and minority members to pass the same standards. Physical standards, for example, are out of reach for females. It was recommended that the general public get involved seriously in reexamining and hopefully revising the out-of-date State codes. Concerning who should get involved in this process, it was noted that the Fraternal Order of Police may

not be an ideal vehicle because the FOP exists to address the concerns of the majority, and the majority of the FOP membership are white males.⁶⁰

A black perspective needed in any review of legislative changes can be obtained by involving the National Organization of Black Law Enforcement Executives (NOBLE), the National Black Police Officers Association, and the NAACP.

One specific legislative change, advocated for consideration, is the adoption of an accreditation process for police officers like those that are used in other parts of the Nation. Such a process would keep a record on police officers's accomplishments, including their training, test results, and experience from the time a police officer is recruited to the date when that officer attains a rank of chief of police.⁶¹

5) Credibility with the Minority Community

According to panelist Phil Carter, the police department of Huntington has a serious credibility problem with the minority community, and it "will not have credibility . . . unless it finds a way to rejuvenate and to rehabilitate and to deal with justice for the way it has previously harassed African American officers or women or other people of color."⁶² The case of one black officer, Austin Hairston, was cited as an example that has seriously eroded the Huntington police's credibility with the black community. Mr. Hairston has been on the force for more than 20 years and is still a patrolman. He has been on night shift for almost 20 years, not in the African American community. He has been an "undercover detective . . . who has been all over this State and served in dangerous work, and yet he remains at that level. We need this man in the community. He has the credibility to give that [new] precinct."⁶³ While recommend-

57 Ibid., pp. 174-75.

58 Ibid., p. 178.

59 Ibid., p. 176.

60 Ibid., pp. 179-81.

There were some disagreements as to whether the involvement of the FOP would be beneficial in getting new legislation passed. See Ibid., pp. 180-82.

61 Ibid., pp. 182-83.

62 Ibid., p. 163.

63 Ibid., p. 164.

ing that Hairston should be sent to school and trained so that he can advance to sergeant, this panelist also pleaded with the police chief:

It is important, Chief, you do something with this man here . . . That's a symbol . . . That's the way to reach out to the community. That's the way to rehabilitate. That's the way to move forward. That's the way to accrue legitimacy. Do it not just for him, but for all of us. That helps to bring credibility to the department."⁶⁴

Chief Wade of the Huntington police promised to try to develop leadership qualities in Austin Hairston and anyone else in his police department. The exchange between Chief Wade, Officer Hairston, and the panelist is interesting:

CHIEF: Did you take the last test?

HAIRSTON: Chief, to be honest with you, it's a waste of time. Total waste.

CHIEF: Did you take the test before then?

HAIRSTON: Yes, I've taken several tests . . . The last one I took was in 1980, the PFC, when they promoted 20 officers. And no, I didn't get promoted, and I was on the list. I never did.

CHIEF: Okay. 1980 . . . He's definitely been a leadership symbol with the community . . . But I can't promote him or anybody else [unless one passes the test].

CARTER: Chief, I understand what you're saying . . . There are things that you can do. You can look around to your brothers on this system, and they can give you some ideas on how to do that and not violate the law, how to help a person get ready for a test. Because you see, if a person continues to be beaten down, that person may feel that there is no help . . . Take command and say, "Austin, I am going to help you . . . you're going to pass that test . . . and we are going to promote you."⁶⁵

6) Procedures for Filing a Complaint

Each panelist described complaint filing procedures, responding to the question "How does a citizen file a complaint against the police in your department?"

Charleston: When a complainant walks in, no matter what hour of the day, the shift commander makes a written report. The shift commander decides whether the complaint can be handled at the shift level, and if so, he handles it, documenting the

action taken, and the resolution. This report is then forwarded to the bureau chief. If the shift commander feels he cannot handle the complaint at that level, it's transferred to the bureau chief. The chief then decides whether he can handle it at his level or whether it should be given to internal affairs for an investigation. Upon receiving a complaint from the bureau chief, internal affairs would confer with the chief then decide whether or not to start an internal investigation. If someone calls in regarding a complaint filed previously, the call is usually routed right to the bureau chief, bypassing the shift commander. Then it follows the same route. Citizen complaints for police misconduct or any other complaints are handled this way, whether the complainant walks in off the street or telephones in.

Although one participant insisted that complaints get lost in the system, Chief Staples disagreed for a number of reasons. First, the shift commander who takes the complaints has to write a report that is forwarded to the bureau chief. The bureau chief reviews the report to see if the shift commander took the proper action. Second, the department has a followup system, in which someone contacts the complainant. Third, if an incident is serious enough that the citizen files a complaint, the citizen-complainant will usually call the chief's office to find out what has happened to the complaint. If Chief Staples gets a call because someone has failed to answer questions that should have been answered long ago, some officer will be in trouble.

Huntington: In the Huntington police department, if any formal police complaint cannot be handled by the shift commander on duty, the bureau commander will interview the complainant the following day. A report will be forwarded to the internal affairs captain, who will determine if an investigation is needed. He will confer with the prosecuting attorney or a member of his staff. The department follows up on a complaint, then the complaint is forwarded to the police chief. Chief Wade is not involved in the process until internal affairs determines that a police officer did not respond properly to a call or was guilty of misconduct. Anonymous complaints by mail are generally forwarded to the bureau commander.

⁶⁴ Ibid., p. 164.

⁶⁵ Ibid., pp. 165-66.

Since Chief Wade has been head of the Huntington police department, complainants are contacted within 30 days or, if the investigation is completed prior to that, within 24 hours of completion. If the shift commander or bureau commander are not handling complaints forthrightly, Chief Wade said, he would not know there's a complaint. However, if he finds that a police officer is not taking the report, not doing his job, then that in itself is another complaint, and charges would be filed against that officer.

West Virginia State Police: Because units of the State police are located all over the State, a complainant calling a unit would probably reach the corporal or sergeant, who is burdened with other duties, and may not receive prompt or satisfactory resolution. The best channel for a complaint is for the complainant to write a letter to the superintendent. The superintendent will answer the letter and give a copy to the internal affairs division which will investigate the complaint. Officer Humphreys noted that some complaints are not legitimate, but that the superintendent does not decide whether a complaint is legitimate or not until after an investigation. A member of the audience expressed concern that the legitimacy of a complaint depends upon who determines whether or not it is legitimate.

Raleigh County: The sheriff's office has citizen complaint forms which are serially numbered. When someone walks into the office with a complaint, the officer in charge of the shift will be called to the station to talk to the person and take the report, filling out a numbered form. If the complaint requires investigation, the detective bureau will be called into the case. If the complainant so desires, the sheriff or his designee will confront the officer or

let the officer and the complainant talk face to face. Usually, talking face to face resolves any misunderstanding.

Complainants are frequently satisfied if a supervisor tells the deputy that he was rude, said something unkind, or overreacted. People appreciate it when someone admits being wrong. For example, a non-drinking person complained because a deputy accused him of imbibing. The deputy, who did not know that the driver abstained from alcohol for religious reasons, noticed some erratic driving, stopped the car and asked "Have you been drinking?" The complainant felt such questioning was uncalled for and was especially insulted because of his religion. The deputy cannot be disciplined for such action when his duty is to stop erratic cars and check them. It should be noted, however, that Sheriff Mangum has dismissed 4 deputies and encouraged about 16 others to resign.

Sheriff Mangum claims that he receives very few formal complaints. Most complainants telephone or come to his office or house to talk about problems. Other panelists also said that people frequently complained through their elected officials, rather than through the police department. In Charleston, Chief Staples said, complainants talk to the mayor on "People's Day" when his door is open for citizens to come in and discuss problems. The mayor completes a form, files a copy, and sends others to the department and to the assistant city manager. The assistant city manager sends a letter thanking the complainant for the information and informing him/her that the complaint has been forwarded to the appropriate person, e.g., the chief of police. If no one has contacted him/her by a certain date, the complainant is instructed on whom to call to ensure that his/her complaint is properly handled. According to Chief Wade, this system exists in Huntington as well.

Panel Three: Commentators

Paul Sheridan Assistant Attorney General, Civil Rights Division, Office of the State Attorney General, West Virginia

According to Assistant Attorney General Paul Sheridan, there is no centralized system for the reporting or investigation of complaints against officers and no State statute or regulation which sets up any standards or procedures.

The West Virginia State police currently have no formal policy for receiving and investigating complaints against officers. Complaints are handled differently depending upon where they are filed and whether filed with the superintendent, a company commander or an individual officer. There is no centralized docketing of complaints. It is not uncommon for the single inspector in the internal affairs division to be unaware of complaints which are received at various levels within the department of public safety.

The State police are in the process of creating a formalized procedure. The new system would call for the receiving and recording of all complaints against State police officers by the central internal affairs division. There would be guidelines concerning how various complaints are to be pursued. Some would be investigated at the company level and some by the internal affairs office. This policy is in the draft stage and its details have not been made public.

Although this policy will be a significant step forward for the State police, it will do nothing to address complaints regarding county and municipal agencies. Complaints at the county and municipal level pose a more complicated problem in West Virginia. There are approximately 250 law enforcement employers in the State, many of which are very small, some as small as one or two officers. Reliable internal investigations by agencies such as these are virtually impossible. Currently, complaints against officers in these agencies would have to be filed with the chief of police or the sheriff, or with the mayor or county commission, who would be the civilian authority over the particular police force. Followup on such complaints could be expected to be very inconsistent at best.

The attorney general's office has recently been made aware of an alleged incident of brutality by a municipal police officer, which was reported to the office of a U.S. Senator and then referred to the attorney general's office. Most likely, the alleged victim wrote to the Senator because the victim did not know where to turn. A complainant should not have to go that route. The general public should be fully informed of the procedure to file a complaint and be assured that it is going to be followed up without having to write to United States Senators. Accordingly, he recommended that a necessary regulatory change be made to enable the collection of such data.

The West Virginia Human Rights Commission has also been the recipient of complaints regarding police misconduct. Under the State Human Rights Act, the human rights commission offers a means of redressing police misconduct but it is indirect at best. Its jurisdiction is over discrimination in employment, housing, and public accommodations. The power to pursue charges of police misconduct, in most instances, would turn upon the question of whether a police department could be fit within the definition of a "public accommodation."

In one case which has come before the human rights commission, a county sheriff was charged with making threats against a mixed race couple in order to aid a rental property owner in the extra judicial eviction of the couple. This particular instance fell within the jurisdiction of the human rights commission, quite fortuitously, because the sheriff was acting in concert with another to deprive the complaint of *housing*. Very few cases of police misconduct will involve housing. Even if the human rights commission occasionally has jurisdiction to investigate allegations of police misconduct and award compensation, it is no replacement for an appropriate mechanism for disciplinary action within the police agency.

Concerning the representation of minorities, Mr. Sheridan pointed out that the personnel office of the West Virginia State police keeps records on the ethnic and racial makeup of its own work force sufficient to meet the EEOC reporting guidelines. Other law enforcement agencies in the State may also keep such data. However, Mr. Sheridan is not aware of anyone in the State who currently collects data on the racial or ethnic makeup of West Virginia's approxi-

mately 250 law enforcement employers. There are two agencies that could collect such data with little additional effort, although there would probably need to be some statutory or regulatory mandate.

The first is the Governor's Office of Community and Industrial Development. This office, that certifies police officers throughout the State,⁶⁶ collects no demographic information other than age. Race or ethnicity information on those officers to be certified in the future could be obtained by simply augmenting the forms used by this office. Although collecting the information on currently certified officers would be a little more involved, Mr. Sheridan believed that it could be done without undue burden since all officers must go through a recertification process.

The other office which might be able to perform this function is the Uniform Crime Reporting Division of the West Virginia State Police (UCR). The mandate of this office⁶⁷ is to collect data on the "activities" of local law enforcement agencies, which currently involves data on criminal activity and investigation. At present, the UCR collects minimal demographic information such as the number of employees, sworn and civilian, and gender. Here, too, a minor modification of the forms in current use would probably be all that is necessary to gather data on the racial and ethnic background of law enforcement officers.

Mr. Sheridan suggested that this information was needed before questioning whether West Virginia law enforcement agencies are doing enough to recruit minorities. Accordingly, he recommended that a necessary regulatory change be made to enable the collection of such data.

Quewanncoii Stephens Executive Director, West Virginia Human Rights Commission

Quewanncoii Stephens described West Virginia's unique demographic characteristics concerning African Americans. Blacks are concentrated in a few areas such as in Beckley, Charleston, Huntington, Logan, and Wheeling, and more recently in Martinsburg, as a result of a recent influx of Jamaicans. West Virginia has very few Hispanics and Asian Americans.

66 W. Va. Code Sec. 30-29-3 (h).

67 W. Va. Code Sec. 15-2-24 (i).

At the police academy, where Mr. Stephens is the first African American to teach police-community and minority relations, he found that the 40 or more white male students in his class had never interacted with a black person. Unlike people in Charleston who encounter blacks every day, these academy students do not even know what their views about blacks are.

The State of West Virginia is also unique because it has very few city or county human rights commissions. Three cities, Charleston, Beckley, and Wheeling, have human rights commissions, and Wheeling's commission has one staff person and a typist. In many other States, a citizen can go to a local human rights commission with a complaint and have it rectified, but in most of West Virginia the only recourse is to go to the State human rights commission. Consequently, the West Virginia Human Rights Commission has a heavy load of complaints.

Based upon his experience as the director of the West Virginia Human Rights Commission, Mr. Stephens recounted the following cases to illustrate the recruiting and retention problems:

Case 1. One city has an all-white male police force. A complaint was filed because they had no minority officers. Their hiring process selected persons from the civil service list. The city's excuse was that they cannot hire minorities because no minorities were on the list and that the list remained in effect for a period of 3 years.

There's something wrong with hiring procedures that cannot consider any new candidates for 3 years. The law enforcement agency, Mr. Stephens suggested, should examine the hiring procedures to see what changes are needed to facilitate the recruitment of minorities.

Case 2. Retaining minorities is difficult. Some black police officers are very reluctant to go places away from their own communities or familiar surroundings. This reluctance sometimes is the reason for some blacks not wanting to become police officers. For example, there is one black State trooper in the city of Martinsburg and he has to patrol an area where there are almost no blacks. The problem is particularly acute when it comes to private clubs. The one black State trooper in Martinsburg must sometimes go into a private club to resolve a problem even though it is

not in his best interest in terms of physical safety. "Here we have a guy who's worried about his own safety in the environment, in the Martinsburg area."⁶⁸

According to Mr. Stephens, West Virginia's dwindling black population is another complicating factor. West Virginia has 1.9 million whites and 65,000 blacks, but by 1995, it will have only 40,000 blacks. Blacks are going to North and South Carolina and Florida because there is nothing, economically or otherwise, to keep them in West Virginia. Such large-scale migration would further weaken the already weak political base and exacerbate the recruitment of blacks.

Mr. Stephens attributed the success of the community-policing in Charleston to two factors. First, Charleston citizens have asserted control over their community by obtaining a grant, which facilitated the forming of a citizen advisory council, involving many concerned citizens. Now the citizens know they, and not the police, have control. Second, the police have a friendly relationship with the citizens of that community. They know every proprietor in the community. They talk to the citizens and go into their homes, but remain policemen, nonetheless. They do not sit in their cars keeping the engine running but interact with the people. This relationship and interaction is what earned the entire community's respect for policemen.

**Constance Burke
Training Coordinator, University
Affiliated Center for Developmental
Disabilities (UACDD), University of
West Virginia, Morgantown**

According to Constance Burke, Huntington's problems arise from institutional racism and are national in scope. Racism remains prevalent, is entrenched, and continues to threaten American society. She contends⁶⁹ that history shows that the white majority uses economic and political power, including the criminal justice system, to maintain authority over racial minorities in America.

People develop stereotypes and prejudices about other people through institutional racism. It affects how police officers think and interact and how African Americans and other ethnic minorities respond to them. Police officers are stereotyped, and blacks are stereotyped. For example, one stereotype that police officers have of blacks is that blacks are paranoid. As a result of institutional racism, Ms. Burke maintained, members of the black community are disproportionately arrested for criminal violations and are more likely to be victims of crime. And they are disproportionately killed by the police in proportion to their numbers in the population.

Ms. Burke said that in spite of its responsibility to rid itself of racist practices, the media exacerbates the problem by continuing to portray blacks and other ethnic minorities in negative terms. The media promotes stereotypes that lead people to think most addicts and convicts are black. Furthermore, the media has affected how police officers see black people, and how black people see police officers. For example, the media did not give a true picture of the police officers, the Hispanics, and how the blacks were involved in the recent Mt. Pleasant riot in Washington, D.C. When the media presents the problems affecting minorities inadequately, both minorities and whites are ill-served.

Based upon her review of training programs, Ms. Burke made the following observations:

1) The training program conducted for the West Virginia State Police Department devotes 4 hours during which the instructor, Mr. Stephens, teaches two subjects, community relations and policing, and community relations and ethnic minorities. Mr. Stephens' four classroom hours are all that a West Virginia police officer gets before he begins working with ethnic minorities and relating to people in the community;

2) The West Virginia statute on training needs to be revised to enhance the diversity of cultural background of police instructors and to increase the number of hours of training on ethnic and cultural groups;

⁶⁸ Ibid., p. 214.

⁶⁹ Ms. Burke noted that some of her thoughts are based on a 1981 report by the National Organization of Black Law Enforcement Executives (NOBLE), entitled "Violent Crime: Who are the Victims?" She feels the report's statements are still relevant today.

3) The curricula should be examined to ensure they include the topics that cause most of the difficulty in police-community relations.⁷⁰ The curricula should establish achievement criterion, a level of proficiency for topics on racial and ethnic relations and require that trainees demonstrate mastery of the materials covered in the training. Currently, most training curricula in West Virginia and across the Nation are nothing but orientation or becoming familiar with the topic. In order to work effectively with people, police must have a thorough understanding of racial and ethnic relations, not just an orientation. The curricula should also include fully developed lesson plans and instructor's guides for subjects that affect the minority community and police-community relations;

4) The curricula should consider calling upon the community to participate in community interaction sessions as part of the training, and, rather than bringing people to the academy, take the police officers to the community; and

5) Chief executives, including sheriffs, police chiefs, and other administrators, should also receive sensitivity training. In West Virginia and many other States, Ms. Burke found that the chief of police and sheriff do not have to have training, even though they serve as role models, develop policies, and set the guidelines.

Ms. Burke recommended that the Huntington police force adopt the community-style policing philosophy. She believes that it could work in Huntington if it is adopted by the police chief as well as everyone under him.

William Dotson Executive Director, Huntington Housing Authority

The Huntington Housing Authority is the largest landlord in the city, with 966 low-income, public housing units. This office played an important role in putting a police precinct into one of the city's public housing units, and its executive director, William Dotson, talked about police-community relations within that precinct.

First, he said, the community is not just black, but mixed. In 1985 when Mr. Dotson came to Huntington, the black population was nearly confined to one section of this city. Public housing policy now is trying to put more white people into units where there is a preponderance of black people. His office's efforts to gain a "more equal 'mix'" of residents extends beyond the concept of police protection and community relations into equal housing opportunity goals and equal housing availability. Regarding the future impact of the new police precinct, he commented:

I cannot say that the police precinct is going to improve community relations between the black community and the local police department. But what I can say is that there's more opportunity now for that interaction to take place. And in order to have relationships, I think you have to have interaction. There's more opportunity for that interaction to develop . . . in hopefully a positive manner.⁷¹

Mr. Dotson observed, however, that the police do not yet know the people they serve and are not out talking and relating. He believed that the police need more foot patrols and need to become involved in community activities and local affairs to forge partnerships with local coalitions, interest groups, and recreation teams. He also added that the Huntington system of hiring police should be changed to consider not just knowledge, in the form of test results, but also experience and skill levels.

Knut Sandjord Police Inspector, Norway

Knut Sandjord, a police inspector from Norway who was visiting the Morgantown probation office, was present at the forum and was asked to describe how complaints of police misconduct are investigated in Norway.

According to Mr. Sandjord, until several years ago, the police used to investigate complaints internally. But the Norwegian government recently decided that the internal investigations system was not adequate and established an independent committee system with regulators, detective inspectors, and a lawyer. When someone has a complaint against an

⁷⁰ These topics include police ethics and professionalism, powers of arrest, community relations, cultural relations, field stops, interviews or interrogations, use of force, use of deadly force, verbal commands and compliance, prisoner transport, and processing. The vast majority of complaints concerning police and citizen interaction stem from these areas, Ms. Burke claimed.

⁷¹ Ibid., p.230.

officer, a report is sent to the independent committee which investigates it and sends the results to the district prosecutor who takes the appropriate action. Thus, an independent committee looks over the shoulders of the police to monitor them and guard against police misconduct.

Exchange

The ensuing exchange between the panelists, Committee members, and the audience provided clarification of five points.

1) The New Precinct Area in Huntington

Observing that the new precinct established in the black community is not functioning as well as it should, the participants made the following suggestions to improve the situation:

a) Officers should be voluntarily assigned to the precinct. Police officers who are assigned there against their wishes or perhaps even as punishment are less likely to visit the community, talk to people, and provide good services;

b) Duty assignments should rotate among all precincts in Huntington. By rotating officers among precincts they would learn every part of the city, every street name, and every block, and be able to get to places faster. All policemen should be assigned a rotational duty in Washington Square for a prescribed time. Inservice training to make the officers more sensitive to particular groups should be conducted prior to their going to those communities; and

c) The precinct's space is inadequate. Officers would be more satisfied working there if the precinct had a larger place with more parking around it.

2) Recruitment and Promotion of Minorities and Women

There was a consensus that the State of West Virginia should adopt hiring and promotion procedures that are fair to all, particularly to the under-represented groups. Since the West Virginia Human Rights Commission (WV HRC) has jurisdiction over employment discrimination, it can investigate allegations that tests are creating employment barriers for blacks in law enforcement. When a person feels he or she has been denied an employment opportunity be-

cause of his race, ethnicity, or gender, the individual can file a complaint, or the WV HRC can initiate an inquiry and file a complaint if warranted by the investigation. Such an investigative inquiry can be triggered by a rumor, a letter of allegation, or a letter from an office or agency concerning an incident.

3) Citizen Review Boards

Opinions varied concerning the establishment of a citizen review board. One participant suggested that the West Virginia Human Rights Commission has nine commissioners representing a cross-section of the State, and could deal with problems with the police as an added responsibility. Other participants, however, felt that the State human rights commission is not enough. They believed that there might be a need for an independent body with a mandate to review, investigate, make determinations as to whether or not an activity is criminal, and send cases of criminal activity to the prosecuting attorney in the local area.

The independent review board might be made up of a lawyer, a judge, and an investigator, as the review board in Norway was,⁷² but should also include some citizen participation. In addition to being independent and outside the law enforcement system, the review board should provide staff to assist an aggrieved person to complete the required form(s) or write letters. The board should be balanced with people from the community, half whites and half blacks. Because of West Virginia's demographics and the alleged "white supremacy mindset," a review board might still not resolve cases fairly unless its membership is balanced between blacks and whites.

4) Hate Crimes and Intimidations

Going beyond police misconduct, the discussion touched on hate crimes and racial/ethnic intimidation in general. It was pointed out that the State law against hate crimes and racial/ethnic intimidation is a helpful tool to combat acts of racism, but it has limited utility in its present form. The State law raises the level of the crime from a misdemeanor to a felony if the act is racially motivated. However, the incident must make the victim feel endangered or threatened by what was said; cursing someone out because he's black is not covered by the law.

⁷² One person objected to including a judge on the review board because "you've got corruption in the judicial system" and a judge might try to protect people in the police system. *Ibid.*, p. 257.

5) Support for the Huntington Police Chief

Several participants expressed their support for the new chief of the Huntington police department and the changes he is making. One person in the audience observed that Chief Wade is a welcome change for the city of Huntington. The chief came to Huntington with an open mind and a fresh perspective on the city because he is not from West Virginia. In addition, the chief can be impartial because he is

not influenced by what happened in the past; he has experience dealing with a black population in another city, St. Louis, that was also segregated. This same person also pleaded with the panelists and others in the audience to help the new chief in making changes, and said that Chief Wade is trying, but he is so surrounded with corruption that he cannot change the city overnight or even in a year.

Summary

Representatives of the black community believed that blacks do not receive adequate, courteous service from the police and that the police and the judicial system treat blacks differently than whites. Disparate treatment of blacks by the police is said to take place in several ways: in face-to-face interaction, in the process of apprehension, and during police investigation and prosecution.

In face-to-face interaction, the police tend to ignore people in the black community and not to show the courtesy of greeting them in their everyday comings and goings. They refuse to give their names and badge numbers—information to which any citizen is entitled—to blacks who might wish to file complaints against them. They are very slow to respond to calls for police assistance, sometimes not appearing at all. They ignore the testimony of African American people as witnesses to crime.

Representatives of the black community alleged that blacks are detained more often than whites. When detaining suspects, the police address blacks and other minorities with impatience and hostility. From the initial contact, the police treat minorities as though they are guilty. One participant used a “Miami Vice” analogy in describing the scene of an arrest with young black suspects splayed across a car, machine guns aimed at their heads, and 15 to 20 police cars at the scene. Another claimed that blacks were frequently beaten, and at times their bones broken on the way to the police station.

There were repeated allegations that the judicial system works differently for African Americans than whites. Crimes against blacks are not investigated quickly or thoroughly and are seldom solved. Cases take a year or more to come to trial, the perpetrators often escape conviction and sentences are light. On the other hand, when blacks commit crimes against whites, justice moves very quickly. Trials occur the following month, and sentences are severe. Community representatives also alleged that blacks are jailed more often than whites and that past incidents with police are less likely to be removed from their files than those of whites.

When blacks wish to sue a police officer, few attorneys are likely to take their cases because the attorneys are intimidated and know they are jeopardizing their careers in the area if they represent a black client against the police. Blacks are rarely on juries when blacks are tried for murder or a capital offense.

These problems of police-community relations are believed to be caused in large part by: 1) the allegedly ineffective internal and civilian review of police misconduct; 2) the hiring procedures that adversely affect minorities, resulting in the underrepresentation of minority law enforcement officers, particularly in above-entry level positions; 3) the lack of multicultural sensitivity among law enforcement officers; and 4) the lack of leadership and political commitment at the State and local levels to improve police-community relations as part of overall race relations in the State.

Findings and Recommendations

Findings on Police Misconduct

Each law enforcement agency has its own system for handling complaints of misconduct. As a result, the systems in place and their effectiveness are not uniform and may differ from one another. The complaints systems now in place are not capable of handling the corruption, beatings, and misconduct. Internal affairs divisions do not investigate their own members, but rather appear to ensure that members of their department stay out of trouble and protect them against punishment if they do get into trouble. Thus, some form of outside review, including a civilian review board, must be established for investigating complaints against police.

Recommendation

The Governor should appoint a civilian commission to conduct a comprehensive assessment of the needs for civilian review boards and to make recommendations to the Governor and the State legislature based on its investigation. The commission membership should include representatives of the State legislature, judicial system, law enforcement, and citizens. The issues to be investigated by such a commission should include:

- a) Identifying legislative changes necessary to enable the establishment of civilian review boards;
- b) Evaluation of a possible relationship between civilian review boards and the State human rights commission;
- c) Weighing relative advantages of establishing civilian review boards at the State or city level;
- d) Examining the extent of disciplinary powers and remedies that should be provided to civilian review boards;
- e) Deciding on the composition of civilian review boards.

Findings on Recruitment, Hiring, and Promotion of Minority and Female Officers

There need to be more minorities and women on police forces where they are underrepresented. Increased representation will create better relations with the minority community and bring about greater credibility. Police brutality of black suspects is less likely when a black officer is present. Pairing black and white patrolmen contributes toward building better relations with both white and black communities.

There is no data collection system in place to measure the representation of minorities and women in law enforcement agencies across the State, nor is there a requirement for such data collection. In the absence of such a data system, it is not possible to identify problem agencies that need more effective recruitment efforts.

The hiring and promotion procedures for law enforcement officers are governed by State code and dictated by implementing regulations as promulgated by the civil service commission. These regulations are at times unrealistic, rigid, and not uniformly implemented.

The State civil service examination, required of all candidates in order to become law enforcement officers, fails black candidates disproportionately and is of questionable validity. Data on pass rates and test validity are unavailable.

Some black candidates are fearful of the harassment they might face as police officers. Some black officers feel threatened even in their own neighborhoods. They fear racism from white colleagues and also the climate of anti-black hostility within the law enforcement establishment. These apprehensive preconceptions serve as a major psychological hindrance for potential black candidates.

Recommendations

The Governor, in consultation with the State legislature, should appoint a fact-finding task force mandating an investigation into the underrepresentation of minorities and women in law enforcement. The goal of this task force shall be to make appropriate recommendations on the following issues:

a) Develop a plan to build a capability for systematic data collection on the hiring and promotion of minorities and women in all law enforcement agencies in the State, and identify legislative changes necessary to mandate the collection of such information;

b) Evaluate the West Virginia State code on the hiring and promotion of law enforcement officers and make recommendations to better meet the needs of our racially diverse society by facilitating fair representation of minorities and women in law enforcement;

c) Identify necessary steps to mandate the agency administering the civil service examination to compile pass-fail data by race/ethnicity on an annual basis; and

d) Evaluate the selection procedures, including the civil service examination and interviews, to see how valid and free of racial/ethnic bias they are, and make appropriate recommendations for improvement.

Leaders of the law enforcement community should assert their moral leadership and display their commitment to improving police-community relations by sustained, aggressive outreach efforts to minority candidates to convince them that law enforcement is a viable career path for them.

Findings on Multicultural Sensitivity Training for Police Officers

Most of the recruits entering the police academy are white, who never or rarely have interacted with blacks. The lack of knowledge, understanding, and sensitivity of most white police officers contributes to creating or exacerbating police-community problems with the minority community.

Recommendation

The State superintendent of public safety and local law enforcement agencies should make mandatory an adequate multicultural training program for all law enforcement officers. The training should encompass the following elements:

a) The police academy set a specified level of proficiency for topics on racial/ethnic relations as a requirement for graduation from the police academy;

b) The training be required as inservice training every year and for all officers, including administrators, and supervisors;

c) Multicultural sensitivity be emphasized at the time of recruiting and should ultimately become part of a candidate's qualifications; and

d) The black community be involved in sensitivity training, and the training curricula incorporate input from black officers and cover the topics that cause the most problems in police-community relations.

Findings on Political Leadership

Many jurisdictions in southern West Virginia remain untouched by, and almost isolated from, the last 30 years of progress in the civil rights movement. This climate, prevalent in many jurisdictions in the southern part of the State, underscores the need for strong political leadership on race issues. Police-community relations are reflections of the interactive dynamics of the society at large. A large scale re-sensitizing of the general public to race issues and persuading the public of the need for racial harmony for mutual prosperity are essential in bringing about improvement in police-community relations.

Recommendation

The State's political leadership, including the Governor, the State legislature, and elected officials, should denounce all acts of police misconduct. An unequivocal public stance against police misconduct will send a clear message to the general public as well as law enforcement officials that the fair administration of justice is a high priority in West Virginia. With the help of the media, the political leadership must create a general climate that promotes racial harmony and build an enlightened, responsive citizenry.

