

U.S. CIVIL RIGHTS UPDATE

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U.S. Commission on Civil Rights

Enforcement of Title VI Found Badly Lacking by Commission

The U.S. Commission on Civil Rights has approved the issuance of a report finding that Federal enforcement of a key section of the 1964 Civil Rights Act has been "dormant" for many years.

For the report "Federal Title VI Enforcement to Ensure Nondiscrimination in Federally Assisted Programs," the Commission's Office of Civil Rights Evaluation studied performances spanning 20 years of the U.S. Department of Justice and nine other Federal agencies and 10 subagencies with programs and activities that fall under Title VI.

Title VI of the 1964 Civil Rights

Act prohibits discrimination based on race, color, or national origin in any Federally assisted program or activity. Besides having its own programs to keep free of discrimination, the Justice Department is charged under a 1980 presidential executive order with overseeing and coordinating the enforcement efforts at all Federal agencies.

While citing "extensive deficiencies" in enforcement of Title VI by the agencies, the report finds the Justice Department "has neglected its responsibility to ensure nondiscrimination in all Federally funded programs and activities."

The report states the Federal Government has in recent years "taken initial steps to renew its commitment" to carrying out Title VI but has neither provided needed funds "nor clarified the extent of its commitment."

The report contains numerous detailed recommendations to the President, Congress, the Justice Department, and the other Federal agencies to bring about "uniform, comprehensive, and meaningful enforcement of Title VI."

In sending the report to the President and to Congressional leaders, Commission Chairperson *See ENFORCEMENT, page 2*

Commission Continues Hearings On Racial and Ethnic Tensions

The U.S. Commission on Civil Rights is continuing its multiyear investigation of "Racial and Ethnic Tensions in American Communities—Poverty, Inequality, and Discrimination," most recently holding a hearing in Miami. That hearing was the sixth in a series, previous hearings on racial and ethnic tensions having been held in Washington, DC, Chicago, Los Angeles, and New York City.

The two-day hearing in Miami

last September focused on the benefits and burdens of immigrant use of public benefits, distinctions in refugee and asylum policies, private and governmental language policies, and the effect of each on racial and ethnic relations in Dade County, including Miami.

The Commission first heard testimony from Miami Mayor Stephen P. Clark. Mayor Clark discussed the transformation that *See INFLUENCES, page 3*

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2 Appointed and 2 Reappointed to Commission

Retired Chief Federal Appellate Court Judge A. Leon Higginbotham, Jr., and community advocate Yvonne Y. Lee have been appointed to the U.S. Commission on Civil Rights, and Commissioners Russell G. Redenbaugh and Carl A. Anderson have been reappointed.

All the terms are for six years.

Higginbotham

Higginbotham, a Democrat appointed by President Clinton in November, is now public service professor of jurisprudence at Harvard University, teaching in the Faculty of Arts and Science, the Law School, and the John F. Kennedy School of Government. He is also of counsel to the law firm of Paul, Weiss, Rifkind, Wharton and Garrison in its New York and Washington, DC offices.

Before retirement in 1993, Higginbotham was Chief Judge of the U.S. Third Circuit Court of Appeals. He joined that court as a circuit judge in 1977. Before that he had been a Federal District Court

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Mary Frances Berry stated in a letter: "Until these recommendations are implemented, the Federal Government will be unable to guarantee that its Federally assisted programs are free of discrimination based upon race, color, or national origin."

She added, "The Federal Government has a moral imperative to ensure that its programs are operated and administered without discrimination and that all persons have an equal opportunity to participate in them."

A copy of the report may be obtained free from the Publications Office, U.S. Commission on Civil Rights, 624 Ninth St., N.W., Room 600, Washington, DC 20425. ■

Appointments made by President, Congress

judge since 1964. Under President Kennedy, Higginbotham was a Commissioner of the Federal Trade Commission, and under President Johnson, he served as Vice Chairman of the National Commission on the Causes and Prevention of Violence.

Last September Higginbotham was awarded the Presidential Medal of Freedom, the Nation's highest civilian honor. He has received more than 60 honorary college degrees and numerous local, regional, and national awards.

Higginbotham succeeded Commissioner Arthur A. Fletcher, whose term expired.

Lee

Lee, a Democrat appointed by President Clinton in December, heads Yvonne Lee Consultants, a San Francisco-based public relations company specializing in Asian community affairs.

From 1989 into 1993 she was national executive director of the Chinese American Citizens Alliance, the oldest national Asian American civil rights organization. Earlier she worked in the field of housing for the elderly.

Lee is a co-founder and officer of the National Network Against Anti-Asian Violence. She also co-founded and served as co-chair of the Coalition of Asian Pacific Americans for Fair Reapportionment. In 1993 she co-produced as well as developed the concept for the Emmy award-winning documentary about Chinese immigration entitled "Separate Lives, Broken Dreams."

Lee succeeded Commissioner Charles Pei Wang, whose term expired.

Redenbaugh

Redenbaugh, an independent appointed to a new term by the President pro tempore of the Senate

in December, has been a member of the Commission since 1990. Redenbaugh is a partner and director of Cooke & Bieler, Inc., an investment management firm based in Philadelphia, and chairman and chief investment officer of Action Technologies, Inc., a California-based company that makes operating systems and application software for distributed computing systems. He also heads Kairos, Inc., a Philadelphia educational services firm that he co-founded.

He has been a chartered investment counselor since 1969 and a chartered financial analyst since 1972.

Redenbaugh is the only disabled person to serve on the Commission since its creation in 1957.

Anderson

Anderson, a Republican appointed to a new term by the Speaker of the House in February, has been a Commissioner since 1990. He is vice president for public policy for the Knights of Columbus, and dean, vice president, and professor of family law at the North American campus of the Pontifical John Paul II Institute for Studies on Marriage and Family, in Washington, DC.

From 1983 into 1987, Anderson was first a staff member in the White House Office of Policy Development and then the President's Special Assistant for Public Liaison. A lawyer by profession, he earlier served as a counselor in the Office of the Secretary at the U.S. Department of Health and Human Services, and before that as a legislative assistant in the U.S. Senate.

Anderson was a Commissioner of the Native Hawaiian Study Commission in the early 1980s.

Other members of the eight-member U.S. Commission on Civil Rights are Chairperson Mary Frances Berry, Vice Chairperson Cruz Reynoso, and Commissioners Robert P. George and Constance Horner. ■

Influences on Miami Racial Relations Discussed

(Continued from page 1)

Miami has undergone since 1960, owing mostly to immigration impact on the educational system, the health care system, housing, and other social services.

Clark indicated that the city has had to deal with strained racial and ethnic relations because of increased immigration, which resulted in white flight and the loss of employment opportunities. The mayor stressed, though, that Miami has become an international city and, in his opinion, has developed a respect and understanding for the new cultures.

Clark also discussed the Neighborhood Enhancement Team (NET) Program, which involves community policing, and reported that the program has had success in Miami.

The Commission also heard testimony concerning the impact of language policies on racial and ethnic tensions in Miami. Support and opposition to proposed "English-only" policies were voiced by witnesses.

Daniel Bradfield, director of Political Field Operations for U.S. English, stated that a common language unifies a country and allows people to participate on an equal basis in society. Bradfield advocated that the government operate and conduct its formal business in English, but also promote and teach English to limited-English-proficient citizens.

Arthur Teele, Jr., chairperson of the Dade County Board of County Commissioners, stated that unemployment and lack of economic opportunity were the problems, not language differences. If there were enough jobs to go around, there would not be a debate on making English the official language, he suggested.

Angel Dominguez, co-chair of the Committee for Dignity and Justice for Immigrants, echoed that sentiment, asserting that immigrants were being used as the scapegoats of politicians who had failed to solve

social and economic problems.

The Commission also heard testimony on the economic benefits and burdens of immigrant use of public benefits.

Mark Schlakman, special counsel to the Governor on immigration, discussed Gov. Lawton Chiles' efforts to obtain from the Federal Government financial relief for the State of Florida. Schlakman indicated the Governor's opposition to initiatives such as Proposition 187 to control immigration. While supporting a controlled migration policy by the Federal Government, Chiles contends that states such as Florida that bear a disproportionate share of the costs of immigration should be compensated, Schlakman explained.

Hearing in New York primarily for purpose of receiving documents as a follow-up action

Doug Guetzloe from Save Our State discussed the economic burden that illegal immigrants place on services provided by the State of Florida, and the Proposition 187 initiative that his organization was sponsoring. That initiative would cut off all funding of services for illegal immigrants, except emergency medical care. Guetzloe stated that the initiative would apply to all illegal immigrants and was not intended to make distinctions based on race.

Antonia Canero-Davies, an immigration attorney, stated that difficulties would result from adoption of the initiative, including an administrative burden in determining immigration status and discrimination against people who look or sound different.

The testimony regarding refugee and asylum policies dealt in particular with Government policies

toward Haitian and Cuban refugees. Panelists discussed a perceived disparate treatment of Haitian refugees in comparison to that of Cuban refugees and tensions resulting from that perception. Panelists expressed opposition to the recent change in policy with respect to Cuban refugees.

In July 1995, the Commission held a one-day hearing in New York City, primarily for the purpose of receiving documents as a follow-up to a three-day hearing in that city the previous year.

New York Mayor Rudolph Giuliani testified that under the Bid Match program instituted by his administration, larger percentages of city contracts are going to minority- and women-owned small businesses than had been going under previous city programs to assist those businesses. When a pilot program was operated in 13 agencies, 33 percent of the contracts went to minority- and women-owned businesses, and when the program was expanded to other agencies, 25 percent of the contracts were awarded to minority- and women-owned businesses, Giuliani said. He said no previous city program had achieved even the 25 percent level.

Contracts going to minority- and women-owned businesses also total more dollars than under previous city programs, he said.

Giuliani said the key to his program was to design contracts small so that they would be accessible to small businesses and then assure that information was easily available to small businesses on how to compete for those contracts.

At the New York hearing, the Commission received documents from about 40 private and government custodians of records dealing with immigration issues and the employment of women and minorities in the finance industry, as well as city government matters. The documents supplement information

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Tension Perspectives Summary And Chicago Report Are Released

An executive summary of its "National Perspectives" hearing on racial and ethnic tensions in American communities has been released by the U.S. Commission on Civil Rights.

The Commission has also released its report on its Chicago hearing on racial and ethnic tensions.

In the introduction, Commission Chairperson Mary Frances Berry said that the summary of key points made by witnesses at the "National Perspectives" hearing presents "a picture of a Nation that continues to struggle with the longstanding challenge of cultivating an unqualified mutual tolerance and acceptance of and among its diverse racial and ethnic groups."

The "National Perspectives" hearing was held in Washington, DC in the spring of 1992 to gain information from researchers, authors, experts, and commentators on issues influencing racial and ethnic relations, as a preliminary to holding hearings in localities across the Nation on these tensions.

Testimony at hearing identified 5 main causes of racial, ethnic tensions

The testimony at the "National Perspectives" hearing identified five primary causes of racial and ethnic tensions. The causes are listed as a crisis in leadership, media portrayals of existing tensions, deficiencies in the educational system, disparities in the criminal justice system, and increasing economic inequality.

The summary also stresses the testimony of witnesses that because of the changing racial and ethnic composition of America, a need has arisen to address the concerns of

newer population groups.

It notes that many witnesses characterized the Nation in general as in a state of denial, either not acknowledging or not addressing comprehensively the issue of tensions.

Although statistics presented at the hearing pointed to a surge in bias or hate crimes, the testimony did not resolve whether increases resulted from more such crimes or merely more frequent reporting of such crimes for tabulation. The statistics themselves probably represent "only the tip of the iceberg" in comparison to the crimes, since evidence indicates most hate crimes go unreported.

"The Chicago Report," Volume III in a series on "Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimina-

tion," resulted from a three-day hearing in Chicago in 1992, field investigations by Commission staff, and research.

The report cites unequal economic opportunity, unequal access to public services, and poor police-community relations as sources of racial and ethnic tensions in Chicago. The report recommends actions by the City of Chicago, the State of Illinois, and the Federal Government to reduce tensions.

Copies of the Chicago report and the executive summary of the "National Perspectives" hearing may be obtained free from the Publications Office, U.S. Commission on Civil Rights, 624 Ninth St., N.W., Room 600, Washington, DC 20425. ■

SAC Reports Are Available

Reports from the Ohio, Colorado, and Nebraska Advisory Committees are now available after having been accepted by the U.S. Commission on Civil Rights.

Calling hate crime a serious issue for Ohio and the Nation, the Ohio Advisory Committee in its report "Hate Crime in Ohio" urged law enforcement agencies in that State to send officers to FBI training on the investigation and reporting of such crime.

The State Advisory Committee said it could not determine precisely the level or even the trend of hate crimes in Ohio, since no "credible base of data" has been developed. The SAC added, however, that hate crimes in Ohio far exceed "a few isolated occurrences."

The Colorado Commission on Higher Education should revise its goals for minority student enrollment

to ensure that each public college goal reflects the racial and ethnic diversity of high school graduates in the region the college serves, according to the Colorado Advisory Committee in its report "The Retention of Minority Students in Colorado Public Institutions of Higher Education: Fort Lewis and Adams State Colleges."

The Nebraska Advisory Committee sees dialogue as the key to progress in relations between the white majority and minorities in western Nebraska as stated in the SAC's report "Race Relations in Western Nebraska."

A copy of any accepted SAC report may be obtained free from the Publications Office, U.S. Commission on Civil Rights, 624 Ninth St., N.W., Room 600, Washington, DC 20425. ■

SAC NEWS

Commission Asks Justice Dept. to Mediate in Milwaukee

The Commission on Civil Rights is asking that the Community Relations Service of the U.S. Justice Department mediate racial tensions among Milwaukee police officers and community tensions over police being dispatched out of their patrol district because of a need in another district.

In a letter on behalf of the Commission, Chairperson Mary Frances Berry urged Attorney General Janet Reno to implement the recommendations of the Commission's Wisconsin Advisory Committee that the mediation among officers and between the police department and communities be provided.

The State Advisory Committee made the recommendations as part of its report on "Police Protection of the African American Community in Milwaukee," which resulted from a two-day factfinding meeting.

Wisconsin SAC cites finding of a 'culture' in police departments

In its report, the SAC cited a finding by the Community Relations Service that each police department has a "culture" reflecting its beliefs as an organization and influencing its and the individual officer's actions. The SAC noted that its review and other studies found that, in the 1970s and 1980s, the Milwaukee police exhibited a culture "unsympathetic, and even antagonistic" to the city's minority communities. Although that culture is now changing, with the department's administration and the overseeing commission working to improve relationships with the African American community, it continues to divide officers along racial lines, the SAC found.

The SAC cited the finding of a mayor's commission on police-community relations of racist remarks by officers, the conclusion of the head of the commission that racial bias existed among some officers, the comments of officers themselves about estrangement between white and black officers, and disputes involving race over hirings, promotions, and disciplinary actions.

"It is imperative that the racial divisions within the police department be addressed and ameliorated," the report concluded in urging mediation by the Community Relations Service.

Interdistrict dispatching of police is found held to a minimum

In urging mediation between citizens and the police department over interdistrict dispatching, the SAC found that such dispatching is held to a minimum, is mainly reserved for emergencies, and as a strategy offers people across the city "opportunity for equal protection from violent crime," but is resented by some because of concerns about losing "their share of scarce police resources." The SAC noted that the police department itself had been unable to reassure citizens and resolve the "contentious issue" that divided the city along racial as well as district and geographic lines.

"It needs to be addressed, mediated, and reconciled to prevent an erosion of race relations within the city," the report concluded.

The report cited statements from representatives of predominantly white neighborhoods that their areas lost protection at a time of rising crime rates because of patrol cars being dispatched from their districts into other districts that already had

more police assigned because of crime and needs.

Milwaukee, the largest city in Wisconsin, has changed from more than 90 percent white in 1960 to 60.8 percent white in 1990, with blacks then making up 30.1 percent of the population and Hispanics 6.3 percent. The police force in 1992 was 77.1 percent white, 15.3 percent black, and 6.1 percent Hispanic.

The SAC found that whites filled a disproportionate number of the merit promotion positions of detective, sergeant, and lieutenant, but suggested the discrepancy could be explained in part by the less seniority possessed by minority officers.

The committee also found that minorities have incurred a statistical "adverse impact" in disciplinary actions. It added that such a finding does not necessarily point to discrimination but instead indicates a possible problem.

A copy of the report may be obtained free from the Publications Office, U.S. Commission on Civil Rights, 624 Ninth St., N.W., Room 600, Washington, DC 20425. ■

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gained at the three-day hearing in September 1994.

Reports from the Miami and New York hearings are to be presented to Congress and the President with findings and recommendations from the Commission.

As the final hearings in this series on racial and ethnic tensions, the Commission will conduct a follow-up hearing in Los Angeles and a hearing will be held in the Mississippi Delta which will address voting rights, public education and higher education issues. ■

Summary of Affirmative Action Available

A briefing paper on the history of affirmative action is available from the U.S. Commission on Civil Rights.

The 28-page briefing paper summarizes the legislative, executive, and judicial development of affirmative action. It defines affirmative action as "any measure, beyond simple termination of a discriminatory practice, that permits the consideration of race, national origin, sex, or disability, along with

AA is addressed in work, education, housing, government

other criteria, and which is adopted to provide opportunities to a class of qualified individuals who have either historically or actually been denied those opportunities."

The paper addresses affirmative action in employment, in government contracting and licensing, in education, and in housing. It outlines presidential Executive Orders and other documents, acts by Congress,

CIVIL RIGHTS CALENDAR

Commission on Civil Rights meetings for rest of 1996

- Friday, June 14
- Friday, July 12
- Friday, September 20
- Friday, October 25
- Friday, November 15
- Friday, December 6

Meetings begin at 9:30 a.m. and are held at the Washington, DC headquarters.

Reviews legal tests established by Supreme Court

and decisions by the Supreme Court that shaped affirmative action as it exists today.

In addition, the paper reviews the legal tests established by the

Supreme Court on the legality of affirmative action measures imposed or implemented by the courts, by employers voluntarily, by Congress, and by State and local governments.

A copy of the briefing paper may be obtained free from the Publications Office, U.S. Commission on Civil Rights, 624 Ninth St., N.W., Room 600, Washington, DC 20425. ■

Transcripts of Briefings Available

Transcripts of briefings on mortgage lending practices and on immigration-related civil rights issues, as well as the transcript of the briefing on police conduct, are available from the U.S. Commission on Civil Rights.

Participants in the Commission's 1995 briefing on mortgage lending generally agreed that more was being done to counter discrimination in lending for home ownership. But judgments differed on how much more was being done and what else should be done.

More being done to counter bias in mortgage lending

The participants included Governor Lawrence B. Lindsey of the Federal Reserve Board and representatives of the Federal National Mortgage Association, the U.S. Department of Housing and Urban Development, the Mortgage Bankers Association of America, the National Community Reinvestment Coalition, the Mortgage Insurance Companies of America, the National Puerto Rican Coalition, the NAACP Legal Defense and Educational Fund, and community banks.

At the briefing on immigration-

related civil rights issues, the Commission heard fears expressed about possible abuses that might occur in a proposed national worker registry to counter illegal immigration.

The Commission also heard strong opposition expressed to California's Proposition 187, which would, if ultimately upheld by the courts, deny illegal immigrants most publicly funded services in that State.

Proponents of a Federal and a state effort to deal with illegal immigration sought to assuage the fears and repudiate the criticism.

Appearing at that briefing were spokespersons for the Migration and Refugee Services of the U.S. Catholic Conference, the American Jewish Committee, the U.S. Commission on Immigration Reform, the "Save Our State" Committee in California, and the Mexican American Legal Defense and Educational Fund.

The U.S. Commission on Immigration Reform proposed the computer registry, based on Social Security numbers, which would inform employers whether job applicants were authorized to work in the United States.

A copy of any briefing transcript may be obtained free from the Publications Office, U.S. Commission on Civil Rights, 624 Ninth St., N.W., Room 600, Washington, DC 20425. ■

Stricter Standards for Police Conduct Are Urged

(Continued from page 8)

department is inadequate and that all police departments should insist on serious, properly supervised sensitivity training for all officers. "There are members of my police department who openly will say I don't care about X, Y, and Z," Rosario said, referring to groups of people.

Hiring and promotion of minority officers might advance change

Deputy Sheriff Roslyn Watkins of Alameda County, CA, president of the Western Region of the National Black Police Association, suggested that while discrimination stems from the broad society, the top management of police bodies can very much reduce displayed hostility by demanding that no incident of bias be tolerated.

Trooper Pat Santangelo of the Florida Highway Patrol, past president of the Florida Police Benevolent Association, suggested that national standards for police trainees, including the passing of psychological tests, be adopted. Sergeant Glover added that psychological tests should be required annually for all officers.

Ronald E. Hampton, a retired D.C. officer and executive director of the National Black Police Officers Association, said that the training academy creates the police culture and value system and suggested that training must be addressed in order to change police behavior.

James E. Moss, a retired Columbus, OH officer and director of Police Officers for Equal Rights, spoke for the hiring and promotion of minorities but added that a black supervisor who is "part of the system ... is not the way to change the system."

Penny E. Harrington, a former

Portland, OR police chief and executive director of the National Center for Women and Policing, said that gender harassment prompts women to quit as police officers and suggested that the primary reason women are not wanted is they break the "code of silence" that bars reporting misconduct by fellow officers. She said one reason more women should be officers is that women do not use excessive force in making arrests.

Wesley A. Pomeroy, a former Berkeley, CA police chief and former sheriff of San Mateo County, CA, and currently executive director of the Dade County (FL) Independent Review Board, said that nondiscriminatory behavior should be heavily stressed in police academies because what officers learn in basic training, when they are eager and receptive, may "stay with them throughout their entire law enforcement careers."

Patrick Murphy, who headed police departments in New York City, Syracuse, NY, Detroit, MI, and Washington, DC, and is now director of the Police Policy Board of the U.S.

Police should see themselves helping 'poor, downtrodden'

Conference of Mayors, said that police officers should be taught to see themselves as trying to help the "poor and downtrodden" and that officers who do see themselves that way are the most fulfilled.

Edward J. Spurlock, a retired Washington, DC deputy police chief, and now president of Spurlock & Associates Inc., said that police problems boil down to "unprofessional conduct" and that the aim of reform should be professionalism.

Police Chief Nicholas Pastore of New Haven, CT said that currently in Connecticut 96 percent of court cases are plea-bargained and that officers are no longer in the position of having to defend their arrests and investigations in court. "Our cops don't go to court anymore," he said. "It's street justice. That's all that prevails."

Mary D. Powers, coordinator for the National Coalition on Police Accountability and publisher of the newsletter "Policing by Consent," told the Commission that groups are organizing across the Nation to oppose police abuse.

'Enormous ambiguities' are faced by officers in action

Jackson, MS Police Chief Robert L. Johnson said that law enforcement has improved during his 23 years as an officer and that he believes improvement will continue. Johnson said that the Jackson police force is now 60 percent African American, in a city that is 65 percent African American.

James J. Fyfe, a retired New York City police officer who is now a professor of criminal justice at Temple University, said that the No. 1 problem with police is that there is no generally accepted definition of what is a good officer and thus "enormous ambiguities" are faced by officers in action. He suggested that stricter standards are required for police behavior.

In closing the briefing, Commission Chairperson Mary Frances Berry described as "frightening" the information that so many cases are plea-bargained that "there's no opportunity for the police officers to be in court, where a court might scrutinize their behavior." ■

Police Conduct Receives Commission Attention

Police officers and officials told the U.S. Commission on Civil Rights that changes are needed to counter instances of police misconduct in local and State law enforcement.

Fourteen panelists appeared at a briefing arranged by the Commission last October to inform its members and the public about the extent of police misconduct, including racism and sexism in local and State police bodies, codes of silence, and other issues, and what might be done about the problems.

Panelist after panelist told of discrimination. There was less certainty about solutions.

Recruiting, training, testing, supervision discussed at briefing

Recruiting for more diversity and better candidates was stressed, as were training, testing, and supervision to reduce prejudice and improve behavior in officers. Also voiced were suggestions that the problems derived from the society, and the most meaningful change must come from there.

There were also contentions that police have generally improved in recent times and

that perceptions of more misconduct result from the increased publicizing of such incidents.

Sergeant Thomas Lee Glover, Sr., of the Dallas (TX) Police Department, stated that improvement must start with the recruiting of better candidates for training as police officers.

He also urged that police departments "continuously monitor" the behavior of officers.

Hiram Rosario, a master patrol officer with the District of Columbia department and president of the D.C. Hispanic Police Association, said that ethnic sensitivity training by his

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