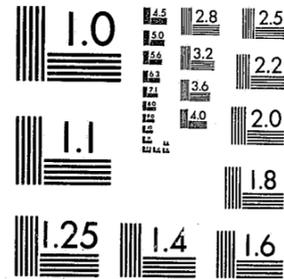


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REPORT OF
FINDINGS

NCJRS

AUG 7 1980

ACQUISITIONS

MINORITY INVOLVEMENT IN THE CRIMINAL JUSTICE SYSTEM
LEAA GRANT NO. 77-TA-99-0003

NATIONAL BAR ASSOCIATION
1900 L St., N.W.
Washington, D.C.

INTRODUCTION

Preface

The National Bar Association (NBA) is a professional organization representing Black attorneys and jurists throughout the United States. Since its inception fifty years ago, the NBA has been a recognized expert in the study and achievement of equal opportunity for all Americans.

Pursuant to a grant from the Law Enforcement Assistance Administration in February 1977 the NBA conducted a sixteen month study of minority employment in the criminal justice system through an examination of employment practices in selected cities across the nation. The report of NBA findings that follows is a first step in the development of a comprehensive body of knowledge on minority employment and upward mobility in criminal justice.

The specific objectives of the NBA Criminal Justice Project were as follows:

- 1) to gather as much information as possible on the extent to which minorities are employed in criminal justice agencies, particularly in policy-making positions;
- 2) to gather information on the perceptions and backgrounds of minorities in criminal justice;
- 3) to determine the major factors which hinder the employment and upward mobility of minorities in criminal justice agencies;
- 4) to determine the nature of criminal justice education policies and their impact on minority participation in criminal justice;
- 5) to develop recommendations that, if implemented, could lead to significant increase in the level of minority participation in criminal justice.

Assumptions and Definitions

Implicit in the development of methods to reach the objectives were certain assumptions and definitions which shaped the nature of the inquiry. The major assumptions and definitions and their effect on this project follow.

Given the fact that minorities are not evenly dispersed throughout the country, an investigation of minority employment in criminal justice would be more enlightening if the study concentrated on geographical areas where the minority populations were above certain levels. In addition, practical considerations of time, manpower and funding made it impossible to address the subject of minority employment in all locales in the nation.

However, little value seemed derivable from limiting the study to only one area of the country where the minority populations were high: our findings might be causally related to idiosyncratic regional variables and not have much utility to our objective of developing recommendations of general applicability. Consequently, the NBA while still recognizing the time, manpower and financing constraints in operation, decided that geographical dispersion along with minority population in our target sites was desirable. Eight target cities from the major geographical areas of the country, i.e., North, South, East, Midwest and West were chosen. Each target city had a population of at least 50,000 with at least 25% of the populace being minority. The eight target cities were Atlanta, Georgia; Baltimore, Maryland; Chicago, Illinois; Compton, California; Houston, Texas; Newark, New Jersey; Oakland, California and Washington, D.C.

The NBA also assumed that a functional approach to delineating criminal justice agencies was desirable. It assumed that whatever the miscellany in their criminal justice systems, all eight target cities would have agencies or institutions by whatever name which functioned to enforce laws, to adjudicate alleged law transgressions, and to incarcerate offenders. Thus the foci of our study were law enforcement, courts and corrections.

The NBA also felt that any study of minorities in the criminal justice system must include a look at criminal justice education programs and minority participation within them. Educational background and training are increasingly major factors in hiring and promotional decisions in the criminal justice system. Thus, opportunities minorities have to participate in educational programs and factors which affect that participation bear upon any study of minority employment in criminal justice. A separate section of the report is devoted to a discussion of criminal justice education.

Another major assertion in this study is that the potential for the most direct and immediate impact on the criminal justice system lay with those positions where the policies and directions of the system are established. Hence the decision was made to pay particular attention minority employment at those levels.

The final assumption introduced a time factor to this study. Because we were not interested in atypical instances of minority employment but rather in general trends to that employment, the NBA looked at employment practices during the five years from 1973 to the beginning of this study, 1977. The NBA thought that the 1972 amendments to the Omnibus Crime Control and Safe Streets Act which required recipients of federal anti-crime monies to practice equal employment opportunity and affirmative action in hiring were salient to any study of minority employment. The five years from 1973-1977 should register what effect these amendments would have on minority employment.

Two definitions figure prominently in our development of approaches to the research objectives. First, for the purposes of this study the term minority refers to racial and ethnic characteristics. Specifically, minority individuals in this report refer to individuals of Afro-American, Hispanic, Asian and Native American extractions.

Policy-making positions in criminal justice are defined as middle and upper management positions where incumbents have the actual responsibility and authority to plan, manage and direct a criminal justice agency's entire operation or a major portion of that operation. Considerations of salary and job classification were also used to identify policy-making positions.

Methodology

There were several methodological techniques used to gather data in this study.

1. Document review - The NBA reviewed equal opportunity documents and literature, with particular emphasis on literature in criminal justice. Other pertinent national, state and local documents, such as annual plans of state planning agencies, annual reports of governmental bodies, related research studies, criminal justice educational reports and reports by the Law Enforcement Assistance Administration were reviewed to develop an overview of minority employment in criminal justice and to select criminal justice agencies and educational programs for investigation.
2. Information Requests - All criminal justice agencies, so identified were sent letters requesting information on staffing patterns, job classifications and salaries within those agencies. Agencies were specifically asked to break out employment data by year, position and ethnic origin. Follow-up letters were sent approximately six weeks after the original requests were made.
3. Agency Questionnaires - Agencies that had not responded within eight weeks of the follow-up requests were sent agency questionnaires developed by the NBA which asked for employment data by year reported in a uniform manner.

4. Workshops - The NBA held four workshops across the country to supplement data gathering techniques and to publicize the study and elicit information on regional variances in criminal justice systems. Two workshops utilized a format which featured prepared presentations and discussions by a panel of professional participants in the criminal justice system and two workshops featured a public hearing format where professionals in the criminal justice system and the public at large gave testimony.
5. Interviews - To supplement data acquired through other means and to acquire data unavailable through other means, the NBA established liasons with individuals in criminal justice and with groups whose members held positions in various criminal justice agencies. By attendance at group meetings and contact with officials of federal, state and local agencies, the NBA developed employment information and data on perceptions and background of actors in the criminal justice system.
6. Field Visits - The NBA conducted field visits to all eight target cities for the purpose of meeting with representatives of criminal justice agencies in those locales and to verify and supplement employment data received.

STATEMENT
OF
FINDINGS

STATEMENT OF FINDINGS

The National Bar Association's study of minority employment in the criminal justice system and related factors resulted in the following major findings:

1. Minority individuals have been and continue to be seriously underrepresented within the personnel of local level criminal justice systems.
2. While racial/ethnic minority groups are underrepresented overall within the workforces of local criminal justice agencies, their underrepresentation is particularly acute in policy oriented executive level positions.
3. The major factors which hinder minority employment in local level criminal justice systems are
 - (a) Heavy reliance on informal recruiting mechanisms which rely on personal contacts and influence--the "good old boy network"
 - (b) Lack of uniformity in applying qualifications standards which fosters the "qualifications myth"
 - (c) Lack of commitment especially by top management in criminal justice agencies to equal employment opportunity/affirmative action programming
 - (d) The chilling effects of past discrimination against minorities in hiring for criminal justice agencies
4. The major factors which hinder the upward mobility of minorities in criminal justice agencies are
 - (a) Heavy reliance on seniority as a factor in promotion considerations
 - (b) Highly subjective supervisory evaluations
 - (c) Duty assignments which deprive minorities of significant professional development necessary for promotion to top level positions
 - (d) Reliance on the "good old boy network" in promotional considerations

D I S C U S S I O N
O F
F I N D I N G S

MINORITY INDIVIDUALS HAVE BEEN AND CONTINUE TO BE SERIOUSLY UNDER-
REPRESENTED WITHIN THE PERSONNEL OF LOCAL CRIMINAL JUSTICE SYSTEMS

While there were overall increases in the number of minority individuals employed in the criminal justice work force at the local level during the period 1973 through 1977, there was only marginal improvement in the proportional representation of minorities in that work force. The numerical increases in minorities holding positions within the criminal justice system were effectively offset by steady increases in the total criminal justice work force¹ i.e , in the number of both minorities and whites employed and by the sheer magnitude of the disparity between the representation of minorities and that of whites. There is also evidence to indicate that the numerical increases were as well offset by high rates of turnover for minorities in some areas of the system. The net result of the increases in the number of minority individuals employed within the criminal justice system from 1973-1977 was to maintain or only slightly improve already unacceptable levels of minority representation in the criminal justice work force.

The study team conducting the National Manpower Survey of the Criminal Justice System has concluded that while employment of minority personnel, especially in police and corrections agencies, increased during the early 1970's (through 1975), the proportional representation of minorities was still seriously deficient.

Statistics compiled by the Equal Employment Opportunity Commission (EEOC) in its annual survey of state and local government employment indicate only slight overall increases from 18.2% to 20.4% in the proportion of full time minority group employees in state and local government work forces during the period 1973 through 1975 (data available only for 1973, 1974 and 1975). The proportional representation of minorities improved only slightly even though the absolute number of minorities employed full time in the state and local government work force increased at a rate approximately four times that of whites.

This phenomenon held true within the functional categories "police protection" and "corrections", the two categories of the EEOC survey which relate directly to the criminal justice system. According to the EEOC's statistics, from 1973 to 1975 the proportional representation of minorities employed full time in the police protection category increased from 9 percent to 11 percent.

Within the corrections category the percentage of minorities employed on a full time basis remained at approximately 21 percent throughout the three year period even though the absolute number of minorities employed in this category increased at the rate of 3.5 percent from 33,697 to 34,884. The rate of increase in absolute numbers for whites and overall in the corrections category during the period was 2.9 percent and 3 percent respectively.

Data compiled by the NBA from the project's eight target cities provides further evidence of the proportional underrepresentation of minorities within the personnel of local criminal justice systems.

Utilizing the Law Enforcement Assistance Administration's standard that a significant disparity exists when the minority representation in an agency's work force is not at least seventy (70) percent of the minority representation in the agency's service population, the NBA assessed the available data on the staffing of criminal justice agencies in the eight target cities and compared it with data on the agencies' service populations. A clear pattern of significant disparities emerged. Of the 27 agencies for which 1977/78 data was available 24 showed significant disparities between the percentage of minorities in their work forces and the percentage of minorities in their service populations.

The magnitude of the problem can best be illustrated by using the Oakland, California Police Department as an example. Since December 1973 the Oakland Police Department has been under a consent decree stipulating specific goals for the representation of minorities among those individuals hired by the Department each year. Specifically the consent decree required that each year among all newly hired police officers who are not hired as replacements for terminating minority police officers 34.5% should be Black, 9.8% should be Spanish-Surnamed and 6.5% should be other minorities e.g. Filipino, Chinese, Japanese, Indian. Each year since signing the consent decree the Department has met or exceeded its numerical hiring goals for minorities resulting in an increase in minority representation among sworn officers from 15.9% in 1973 to 26.25% in 1976. While this effort and results are meritorious, notwithstanding the fact that litigation was required to bring them about, using the LEAA definition for significant disparity the

Oakland Police Department still exhibits significant disparity between the percentage of minorities in its work force (26.25%) and the percentage of minorities in its service population (50%).

As will be discussed later in this report, it is recognized that parity of the percentage of minorities in the work force with the percentage of minorities in the service population may be an unrealistic goal for attorney staffed agencies i.e., prosecutor and public defender agencies given the requirement that professional employees in these agencies be attorneys. When attorney staffed agencies are excluded from the NBA's comparison of agencies' work forces and their service populations, the resultant figures are 18 of 19 non-attorney staffed criminal justice agencies showed significant disparities.

WHILE RACIAL/ETHNIC MINORITY GROUPS ARE UNDERREPRESENTED OVERALL WITHIN THE WORK FORCES OF LOCAL CRIMINAL JUSTICE AGENCIES, THEIR UNDERREPRESENTATION IS PARTICULARLY ACUTE IN POLICY ORIENTED EXECUTIVE LEVEL POSITIONS

Consistent with the NBA's concern about the quality of minority employment within the criminal justice system as well as with the overall quantity of that employment, we undertook an analysis of minority representation within various job categories of criminal justice agencies and of the distribution of minorities among job categories. We focused particular attention on those positions which are considered policy oriented executive level positions, i.e., upper and middle management positions in which are vested the responsibility and authority to plan, manage and direct a criminal justice agency's entire operation or a major portion of that operation. Our assessment revealed that minorities remain seriously underrepresented in policy oriented executive level positions of the criminal justice system. Our analysis substantiated as well a corollary to this finding specifically, minorities who are employed within the criminal justice system are generally clustered in clerical, para-professional and entry level professional positions.

Statistics and conclusions drawn from the EEOC's annual surveys of state and local governments and the National Manpower Survey of the Criminal Justice System again provide an excellent backdrop for the discussion of this finding.

Our review of the EEOC's survey data focused on the job category "Officials/Administrators." The EEOC statistics indicate that there

were only slight increases from 6.8 percent to 8.3 percent in the proportion of full time minority group employees in the officials/administrators category of state and local government work forces during the period of 1973-1975.

Within the police protection and corrections functions identified in the EEOC's surveys the officials/administrators category reflects shifts from 4.4 percent minority representation to 4.2 percent and 9.8 percent to 12.6 percent respectively during the period of 1973-1975. A comparison of minority representation in the officials/administrators category to overall minority representation in the police protection and corrections functions indicates significant underrepresentation of minorities in executive level positions. For example, overall minority group representation in the police protection function shifted from 9 to 11 percent between 1973 and 1975 however, minority representation in the official/administrator category was only approximately 4 percent.

This underrepresentation in police executive level positions is compounded even further by the fact that the standard for comparison i.e., overall minority representation itself represents a significant underrepresentation overall.

As noted above, within the police protection function, there was a decrease in the minority representation in the officials/administrators category. This decrease in proportional representation of minorities is reflective of a decrease in the actual number of minority police personnel in the official/administrator category from 548 in 1973 to 378 in 1975. The total number of police personnel in the official/administrator category also decreased during the period from 12,415 to 8,953 however, this

overall decrease was not sufficient to offset the decrease in minority officials/administrators i.e., to at least maintain the same proportional representation of minorities throughout the period.

In contrast, within the corrections function while there was also a decrease in the total number of officials/administrators from 7,067 in 1973 to 6,437 in 1975 there was a steady yearly increase--from 695 in 1973 to 764 in 1974 to 812 in 1975--in the number of minority corrections personnel in the official/administrator category resulting in the increase, albeit slight, in the proportional representation of minorities in the category.

The researchers who conducted the National Manpower Survey of the Criminal Justice System concluded that racial/ethnic minority group members (and women) are underrepresented in executive level positions within the criminal justice system overall and specifically in each of its respective components. ¹

Data compiled by the NBA from the project's eight target cities also indicate underrepresentation of minorities in policy oriented, executive level positions throughout the criminal justice system. Of the 27 agencies within our eight target cities for which 1977 data was available 25 demonstrated an underrepresentation of minorities at the executive level.

Again, the Oakland California Police Department represents a clear example of the magnitude of the problem. As has been discussed previously, the Oakland Police Department under a specific court order regarding minority hiring goals has met or exceeded the court decreed hiring goals consistently since 1973. However, during this period of meritorious and sustained affirmative action for entry level positions, there was only one minority individual in a command

position, Deputy Chief of Police, within the Oakland Police Department. During the course of our project this individual who was, in fact, the only minority above the rank of sergeant resigned to become Chief of Police in another city.

Simultaneous with the phenomenon of minority underrepresentation in executive positions is the phenomenon of clustering of minority employees in clerical, para-professional and entry level positions within the criminal justice system.

According to the EEOC's annual survey of state and local government employment two-thirds of the minorities employed in state and local government overall are employed in clerical, para-professional and service maintenance positions.² Within the police protection function, the greatest concentration of minorities can consistently be found in the service maintenance, office/clerical and para-professional positions (See Table 1). Within the corrections function minorities are consistently concentrated in para-professional, service maintenance, protective service (guards, cottage parents, etc.) and technician positions (See Table 2).

TABLE 1

PARTICIPATION RATES OF FULL-TIME MINORITY GROUP EMPLOYEES IN STATE AND LOCAL POLICE PROTECTION FUNCTIONS, BY OCCUPATION, UNITED STATES, 1973, 1974, 1975

<u>POLICE PROTECTION</u> <u>OCCUPATION</u>	<u>1973</u>		<u>1974</u>		<u>1975</u>	
	<u>MINORITY</u>	<u>WHITE</u>	<u>MINORITY</u>	<u>WHITE</u>	<u>MINORITY</u>	<u>WHITE</u>
OFFICIALS/ADMIN	4.4	95.6	4.4	95.6	4.2	95.8
PROFESSIONALS	5.5	94.5	6.0	94.0	6.1	93.9
TECHNICIANS	5.6	94.4	6.0	94.0	7.0	93.0
PROTECTIVE SERVICE	8.7	91.3	9.2	90.8	10.3	89.7
PARA-PROFESSIONALS	13.5	86.5	16.3	83.7	18.0	82.0
OFFICE/CLERICAL	15.3	84.7	16.2	83.8	17.6	82.4
SKILLED CRAFT	11.4	88.6	11.7	88.3	13.5	86.5
SERVICE MAINTENANCE	32.7	67.3	35.1	64.9	28.8	71.2

TABLE 2

PARTICIPATION RATES OF FULL-TIME MINORITY GROUP
EMPLOYEES IN STATE AND LOCAL CORRECTIONS FUNCTIONS
BY OCCUPATION, UNITED STATES, 1973, 1974, 1975

<u>CORRECTIONS</u> <u>OCCUPATION</u>	<u>1973</u>		<u>1974</u>		<u>1975</u>	
	<u>MINORITY</u>	<u>WHITE</u>	<u>MINORITY</u>	<u>WHITE</u>	<u>MINORITY</u>	<u>WHITE</u>
OFFICIALS/ADMIN	9.8	90.2	11.5	88.5	12.6	87.4
PROFESSIONALS	14.7	85.3	15.1	84.9	16.2	83.8
PROTECTIVE SERVICE	19.0	81.0	21.6	78.4	22.1	77.9
TECHNICIANS	18.8	81.2	22.6	77.4	23.8	76.2
SKILLED CRAFT	9.5	90.5	10.3	89.7	10.5	89.5
SERVICE MAINTENANCE	23.2	76.8	25.9	74.1	25.5	74.5
OFFICE/CLERICAL	15.0	85.0	16.4	83.6	17.2	82.8
PARA-PROFESSIONAL	36.6	63.4	37.3	62.7	36.5	63.5

COURTS

Court systems have only recently begun to be looked at with regard to equal employment opportunity (eoo) and affirmative action considerations. The courts have been the last component of the criminal justice system to be subject to scrutiny with regard to eoo and affirmative action, in part, because the public does not generally perceive of court systems as employers and because the courts enjoy a sacrosanct status before the public in which it is generally assumed that the courts and all that is connected with them must automatically be fair and just. Over the last several years the increased focus on court reforms including the trend toward more professionalization in the operation of courts there has been an increased recognition that courts are major employers within the nation's justice system.

An extensive study of equal employment opportunity and affirmative action in the nation's courts is being undertaken by the National Center for State Courts (NCSC) Equal Employment Opportunity in the Courts Project. In addition to our direct investigation of court systems in our eight target cities we received information about courts and affirmative action in general through interviews with the NCSC Project personnel. Three findings with regard to courts and minority employment emerged from our investigation. Our findings were generally supportive of and supported by the NCSC Project results.

First, there is a lack of definitive statistical data on minority representation within court workforces. Court systems generally do not maintain personnel data in a form where racial composition of the workforce can be easily determined. The NCSC Project staff reported that three fourths of the court agencies which they surveyed indicated

that such data was either not maintained or was otherwise unavailable. Additionally, where some data does exist court systems may be reluctant to release the data if it is believed that the data will reflect negatively upon them.

Of the 18 courts in our eight target cities only four¹ provided any information at all about their workforce composition. Of the four for which information was provided there was reasonably complete data for only two². The most extensive data on any court in the eight target cities was garnered from a research study which was conducted by minority judge on the court. Judge Joseph Howard's study of the employment practices of the Supreme Bench of Baltimore, Maryland³ was conducted without the approval of the full court and caused some hostility toward Judge Howard from other members of the Court who perceived of his study as "airing dirty linen". The fact that it was a minority judge who demonstrated a concern about minority representation in the workforce of the court of which he was a member is indicative of a phenomenon identified by the NCSC Project staff. That is, that the percentage of minority (and women) judges within a court system is directly related to the representation of minority (and women) employees within the court's workforce.

Since maintenance of statistical data on workforce composition is a prerequisite for establishing and implementing an affirmative action the lack of statistical data regarding the racial composition of court workforces is directly related to our second finding--court systems generally have not adopted equal employment opportunity and affirmative action policies and procedures for their internal personnel systems. As noted by the staff of the NCSC's EEO in the Courts Project, the most significant reasons for the court's failure to act in this

regard appear to be (1) the belief that court personnel systems are not subject to federal and other equal employment opportunity mandates based upon separation of powers arguments and (2) the lack of commitment on the part of the judicial leadership in individual court systems. We noted an additional reason for court systems' failure to adopt affirmative action processes notably, the lack of public focus and pressure on court systems as employers. The public, particularly minorities, generally does not perceive of courts as major employers within the justice system nor is it generally understood that decisions made by non-judicial court personnel vis-a-vis court operations often have as significant public impact as judicial rulings. Because there has not been the level of public pressure for affirmative action focused on court personnel as has been focused on other components of the criminal justice system, court systems have been "allowed" to be less than aggressive in this area.

Finally, despite the lack of statistical data regarding minority representation among court non-judicial personnel we concluded that minorities are underrepresented in court workforces, particularly in policy oriented executive level positions. This conclusion is based upon analyses of the data that was available and comments and observations of persons employed in court agencies and of lawyers and judges who are in a position to observe court operations because of their day to day contact with local courts. We note, for example, that only 23% of the positions under the direct jurisdiction of the Supreme Bench of Baltimore-City were held by minorities between 1973 and 1975 while minorities made up 53% of the population of the city. Among executive level positions there were no minorities in such positions during 1973 and 1974 and only one minority among 21 such positions

in 1975. Within the Houston, Texas Municipal Courts during the period 1975-1977, minority representation within the workforce was at parity with minority representation in the general population however, 85% of the minorities employed within the system were in the lowest level clerical positions.

COURTS FOOTNOTES

1. Baltimore, Maryland, Houston, Texas, Atlanta, Georgia, Newark, New Jersey
2. Baltimore, Maryland, Houston, Texas
3. Joseph C. Howard, Jr., Employment Practices in the Administration of Justice under the Supreme Bench of Baltimore City, Center for Urban Affairs, Morgan State University, 1975

PROSECUTION AND DEFENSE

Prosecution and defense are two important facets of the criminal justice system and both have received a great deal of attention in recent years. Prosecutorial decisions obviously have impact on defendants. Prosecutorial agencies determine whether or not to prosecute ¹ alleged criminal offenders and the severity of charges if brought. Moreover, prosecutorial attitudes and decisions affect court calendar ² scheduling and even the tone and manner in which cases are tried.

Public defender agencies also impact greatly on the criminal justice system. They provide legal defense to indigent defendants and in many cases are the first contact alleged transgressors have with the criminal justice system after arrest. Public defender offices are relatively new developments in criminal justice and really represent only form for legal services that must be provided to indigent defendants. While some legal services have historically been available to indigents, ³ the impetus for the development of comprehensive ⁴ legal services programs for indigent defendants has been court cases that have established rights to counsel for individuals regardless of ⁵ financial ability to pay.

The NBA studied attorney staffed agencies in its eight target cities.

Minority employment in prosecutorial and defense agencies is important to the effective functioning of the criminal justice system in many ways: minorities bring necessary cultural diversity and perspectives to the criminal justice system that would otherwise be

missing; minority participation can ensure that discriminatory practices by other individuals in the criminal justice system, if not stopped, are at least highlighted and minority presence in criminal justice has stabilizing impact on society by providing career opportunities and societal participation for minorities and facilitating ⁶ changes and adjustments for society as a whole.

The NBA investigated the presence and absence of minorities, particularly of minority policy makers in prosecution and defender agencies. It found that: (1) there is serious minority employment underrepresentation in such agencies; and (2) this underrepresentation is particularly acute in upper echelon policy making areas.

For instance, the Harris Co. District Attorney's office whose jurisdiction encompasses all of Houston, Texas had 166 professional employees in 1977. Of that figure, 23 or 13.9% were minorities but Houston has a population that is over 40% minority. Of the 23 minority professionals employed by the Harris Co. District Attorney's office 17 or 74% are in the entry level assistant district attorney position. The remaining six minority professionals are one level above that-- they are all court chief prosecutors. There are no minorities above this rank, i.e., 100% of the positions above the court chief prosecutor level are held by whites. Nor are these findings isolated instances of underrepresentation. In the five year period of our study, 1973 to 1977, there have been no minorities above the rank of court chief prosecutor in the Harris Co. District Attorney office despite a 30.7% expansion in the size of that agency during that period.

In none of the other target cities is minority participation much different. In 1973, for example, of the 88 professional positions in the States' Attorneys Office of Baltimore City, 94% of them were held by whites. In 1974 that figure was 93% and in 1975 the percentage of whites remained 93% despite a 20.5% increase in the size of that agency. And in the Public Defenders Office for the City of Baltimore 91.7% of the professional employees were white in 1977. But Baltimore City has a population that is 47% minority.

In Washington, D.C., a city with a minority population of 73% and in which is located a large historically Black law school, the Office of the Corporation Counsel which shares criminal prosecutorial responsibilities with the U.S. Attorney's Office had a minority attorney representation of only 16.5% of the attorney staff in 1976. In 1977 the proportional representation of minority attorneys decreased to 15.8%.

The NBA found a myriad of reasons for the underrepresentation and upward mobility problems of minorities in attorney staffed agencies. While prosecutorial agencies differ from public defender offices in several ways, few substantial differences existed between them when it came to minority employment.

The general political nature of both prosecution and defense agencies is a backdrop upon which minority representation and upward mobility must be viewed. The District Attorney or chief executive in most prosecutorial agencies is usually an elected official, or is directly accountable to an elected official. The Public Defender is

usually appointed by the chief elected official. While the NBA has no opinion as to the overall desirability of alliances between politics and prosecution and defense, we did find that, at present, the political nature of these areas was a contributing factor to the dearth of minority representation in prosecution and defense.

Individuals interested in positions in prosecution and defense agencies are often expected to have "political sponsors", i.e., they are expected to apply with the approval of individuals with acceptable ties or alliances to political structures that exist in the locales. Or applicants are expected to be from the communities that support these political structures. The political practices also intermesh with the promotional processes in prosecution and defense agencies. Minority employment and upward mobility in prosecution and defense agencies are adversely affected because minority communities, for the most part, have not received the political responsiveness or accountability that other more entrenched groups have been able to demand. To the extent that politics are an integral part of hiring and promotional processes in prosecution and defense is the extent to which minorities, for the most part at present, are adversely affected.

The political factor in the hiring and promotion process in prosecution and defense agencies presentation does not alone account for the scarcity of minorities in prosecution and defense agencies. There are additional variables that affect minority employment and upward mobility. The variables are grouped into three categories for discussion purposes. Discussion will center on:

- 1) factors the NBA found to hinder the employment of minorities in prosecution and defense agencies;
- 2) factors which hinder the upward mobility of minorities in those agencies; and
- 3) factors which foster the employment and upward mobility of minorities in those agencies.
(Since the factors which foster employment were found to be the same as those which foster upward mobility, they are handled in one discussion section.)

The last part of this section lists recommendations the NBA feels will aid the employment and upward mobility of minorities in prosecution and defense agencies.

Factors That Hinder Employment

Prosecutorial and defense agencies tend to use recruitment procedures that hinder the employment of minorities in their organizations. They utilize informal recruitment processes that rely a great deal on personal referrals,⁸ and on subjective assessments that put minorities at a disadvantage when they seek employment. The NBA recognizes that intangible variables have a place in decisions to hire individuals, however, when recruitment procedures put such heavy reliance on family ties and acquaintances, personal knowledge, friendship, graduation from particular law schools--in many ways a buddy system--minorities, because of past and present systemic discrimination, are denied equal access to employment opportunities. This is the case in prosecution and defense.

Within the informal recruitment systems that prosecution and defense offices use is not only the preference for graduates from particular schools but, also a bias against law graduates from predominantly minority schools. In one instance, the

recruitment officer of a major prosecutorial agency was not even acquainted with career placement officers at a large predominantly minority law school in his city.⁹ Given the fact that legal education opportunities for minorities at predominantly white law schools are comparatively recent phenomena, discrimination against graduates of minority law schools has a particularly deep impact on the employment of minorities in prosecution and defense.

Related to the existence of bias against graduates from minority law schools is what several criminal justice observers termed "the qualification myth."¹⁰ In simple terms, prosecution and defense officers, and other criminal justice agencies that are to affirmatively hire minorities claim that they simply cannot find qualified people. It becomes a self-fulfilling prophecy: these agencies determine what good qualifications minorities should have, then they claim they cannot find minorities with those qualifications, and therefore they do not look for potential minority employees or look half-heartedly. There are several points that should be discussed about the qualification myth.

- 1) Lack of qualifications has been used as the excuse when employers have not wanted to hire minorities who do in fact meet the stated qualifications requirements but who do not meet the more subjective preferences of the agency or interviewer.¹¹

- 2) Many attorney staffed agencies indicated that minorities who meet their qualifications are at a premium that out of the number of minorities who apply for positions, particularly entry level positions, only a very few of them are hired.¹²

However, our investigation indicated that often when prosecution and defense agencies do seek potential minority employees, they tend to seek "super-stars" i.e., minority individuals whose background, status and experience far exceed the requisites in job descriptions for entry level positions in attorney staffed agencies and whose qualifications exceed those of white individuals who are hired. Recruitment personnel think that minority employment availability is below expectations in prosecution and defense, but the "super-star" syndrome figures prominently in that assessment. That syndrome is an overkill that is unnecessarily restrictive when it comes to identifying minority applicants available for employment in attorney staffed agencies.

To the extent that the number of potential minority applicants in prosecution and defense is below the demand for them, then law school and bar licensing policies are responsible to a great degree: law schools admit only a small number of minorities¹³ when compared to whites. In-depth examination of these two factors was outside the purview of the present study, but the relationship between those factors and the availability of minority attorneys merits study. However, the existence of these factors or the possible existence of them should not stymie or limit improvement in methods to attract minorities to attorney staffed agencies. Prosecution and defense agencies should broaden their geographic focus in minority recruitment efforts. The NBA found that attorney

staffed agencies concentrate their minority hiring efforts within local confines -- usually the municipality where the office exists or at best within the county where the office exists. The NBA did find instances where agency recruitment personnel made forays to minority universities outside their areas to interest minorities in employment, but those trips were sporadic and not incorporated in any systematic approach to minority hiring. Attorney staffed agencies, if they feel limited in their efforts to recruit minorities within local confines, might benefit from expanding their recruitment bases to encompass at least adjacent states in their areas. Furthermore, minority recruitment is not something that can be done as a one time effort once a year. Consistent, integrated strategies are necessary. Continuing updating of information on minority attorneys should be done by prosecution and defense agencies if they are to be effective in minority recruitment efforts. Liaison with minority legal organizations and coordinated activities between such organizations and attorney staffed agencies might be successful tactics for developing ways to rectify the imbalance of minority attorneys in prosecution and defense.

Other factors are also important to minority employment in prosecution and defense.

The time lag which sometimes exist between recruitment and actual employment is another factor that disproportionately affects minority hiring in attorney staffed agencies. Personnel

officers in these agencies indicate that only a limited number of vacancies occur in their agencies during a year. When they go recruiting at law schools they cannot guarantee when or how quickly positions will become available. As a result, minority graduates who personnel officers felt were qualified for positions take jobs elsewhere before the recruiting officer is able to offer a specific position.¹⁴

The fact that attorney staffed agencies put heavy emphasis on clinical experience as a factor in hiring desirability also affects minority employment. Clinical programs are at a premium: most law schools have a limited number of slots available in such programs despite high demand for them by law students. Furthermore, clinical programs are usually structured so that simultaneous part-time employment is impossible. No full scale studies exist on the percentages of minority law students who must work to supplement their income during law school but evidence suggests that the percentage is high. The extent to which clinical programs are at a premium and minorities have limited access to them affects minority employment in attorney staffed agencies in view of the heavy reliance recruiters from these agencies put on clinical experience.

The above discussion has emphasized the attitudes and activities of prosecution and defense personnel as those attitudes and behavior pertain to minority employment. However,

there may be attitudes held by minorities themselves which hinder their employment in attorney staffed agencies.

Many minority prosecutors related instances in which they had tried to interest other minority individuals in careers in prosecution only to encounter the view that prosecution was somehow "anti-minority";¹⁵ that prosecutorial activities centered around the protection of interests which are in opposition to and even detrimental to those of minority communities. For example, in police brutality allegations, prosecutors often play pivotal roles in determining the feasibility and extent of criminal charges against the police officers involved in such incidents. To the extent that minority communities perceive that police officers in such cases are not punished or are not adequately punished,¹⁶ the image of prosecution agencies suffers by association. That negativeness is a blockage to minority recruitment efforts in prosecution.

Some minority attitudes about sentencing alternatives also seem to affect the attractiveness of prosecution as a career option for minorities. The sentencing alternative that most rankled minority individuals seemed to be prosecutorial recommendation for judicial imposition of death sentences for certain felonious offenses. Minority prosecutors and prospective minority employees were not only vocal but adamant in their opposition to the death sentence and other sentencing alternatives that prosecutors can recommend.

In the public defender area, there are also minority attitudes toward public defense agencies that seem to hinder minority employment. Public defender agencies have an image problem in minority communities. Public defender offices provide legal services to indigent defendants but the attorneys are public employees. Indigent defendants see this kind of legal defense as a form of welfare; a free legal service to be sure, but one of lower value and of less accountability to the defendant than purchased legal services.¹⁸ Minority public defenders say they do get better cooperation from minority defendants in the preparation of their defenses than do white public defenders,¹⁹ but the perception by minorities including minority attorneys that public defense is legal welfare does seem to affect the attractiveness of public defense to potential minority employees.

Attitudes about career opportunities and salary expectations seem to be factors that hinder minority employment in attorney staffed agencies. Recent minority law graduates have expectations about careers and salaries which seem to make them shy away from some areas like prosecution and defense. With reference to careers: private practice seems to have a certain glamour and appeal to minority law graduates and possibly to law graduates in general. With reference to salaries: minority law graduates may expect to earn higher salaries than are the norm for recent

law graduates. A larger than average salary might be commanded in some cases but as one experienced minority lawyer said, "people expect too much right out of law school."²⁰ These attitudes affect the attractiveness of prosecution and defense to minorities.

The expectations that many recent minority law graduates have toward legal career opportunities and salaries may make them hesitant to consider careers in prosecution and defense. But prosecution and defense recruiters have trouble convincing established minority attorneys to accept job offers in attorney staffed agencies. For established minority attorneys some loss in salary and mobility can likely result if they leave private practice for prosecution or defense employment. Employment personnel in attorney staffed agencies say this potential loss figures negatively in their efforts to attract minorities.

Factors Which Hinder Upward Mobility

Administrators in attorney staffed criminal justice agencies say that the preponderate factor for the existence of few minorities in key positions in their agencies is rapid turnover among minority employees. They indicate that minority employees do not stay with prosecution and defense agencies long enough to be promoted.

When the NBA investigated minority upward mobility in prosecution and defense agencies, we found that the argument put forth by prosecution and defense administrators that

minorities cause their promotional rates to be low by leaving prematurely is not only simplistic but flawed.

The argument is simplistic because it ignores the fact that minorities who have tenure with prosecution and defense agencies are concentrated in the lower job classifications. It is flawed because it shifts the burden for agency employment and promotional policies from the agencies to minority employees themselves, and because it obscures examination of those policies as possible factors in minority turn-over rates and upward mobility.

The NBA found several factors which hindered the upward mobility of minorities in attorney staffed agencies. We also found that these factors came to bear on decisions by minorities to leave prosecution and defense agencies.

The factors that hinder minority upward mobility are:

(1) the case and duty assignments given minorities; (2) qualification myths and assessments of minorities by supervisors; (3) seniority systems; and (4) the commitment and interest of the chief executive officer in the upward mobility of his minority staff.

Minorities in attorney staffed agencies tend to receive case assignments that hinder upward mobility aspirations. In prosecution and defense there exist ratings, albeit subjective, about the value of different kinds of cases. For example, securing a conviction in a misdemeanor case by a prosecutor and getting an acquittal in such a case by a public defender may require a great deal of work but they do not carry the same

values as similar dispositions in felony cases which can bring public as well as professional acclaim to the respective attorneys and the agencies. High value cases like felony cases are considered to be indicators of superior on the job performance if handled successfully. And on the job performances are usually important factors in decisions to promote or upgrade staff.

The NBA found that minority attorneys complain of cronyism in case assignments; of being given "low value", routine cases often in the juvenile and misdemeanor divisions within their offices while cases that could result in display and recognition of litigation skills are often reserved for the favored prosecutors on staff. Minority attorneys in some instances may have heavier case loads than many of their white counterparts but the cases do not provide the minority attorneys with the kind of practice and experience that figure prominently in promotional decisions in attorney staffed agencies.

Minorities in attorney staffed agencies have mixed feelings about one consideration that can figure in their on the job performance. That factor is the expectation on the part of their superiors that substantial affirmative action efforts will be made by minority attorneys. Minority attorneys say that affirmative action responsibilities are often informal aspects to their job duties.

On one hand, minority attorneys would like to see increases in their numbers within prosecution and defense agencies but, on the other hand expectations that they be responsible for the

success or failure of affirmative action efforts is felt to be unfair for several reasons:

- 1) Minority input in affirmative action policy and planning when it exists is very limited. Minorities are expected to be role models, to "recruit" i.e., to sell other minorities on the idea of employment in prosecution and defense but they have very little actual control or influence over the hiring process that will actually determine whether or not minorities are hired.
- 2) The extent to which affirmative action activity is undertaken by minority attorneys takes time and effort away from that which should be devoted to case loads, and other job duties.
- 3) Often, when minorities assume some responsibility for affirmative action, white administrators rationalize that additional efforts on their parts are optional. Responsibility somehow shifts from those with actual control over hiring decisions to minority attorneys who may be doing some limited recruitment.

FOOTNOTES

1. See e.g. "Plea-Bargaining and the Vindictive Prosecutor" by J. Vincent Aprile II in Criminal Defense, July-Aug '77 Vol. 4, p. 11 ff. Also comments of First Asst. DA for the Cook Co. States Attorney Office during NBA hearing, Chicago, Illinois December 10, 1977 who estimated that 35-40% of individuals arrested for alleged felony offenses are not charged by his office. An attorney in private criminal practice in Chicago noted that all prosecutorial alternatives should not be excused as legitimate exercises of prosecutorial discretion. He cites as examples the charging disparities in racial incidents in Chicago. White individuals damaged automobiles and attacked marching demonstrators protesting racial discrimination in Marquette Park, a neighborhood in Chicago. Those few of them who were arrested for their actions were charged with misdemeanor offenses. On the other hand, Blacks protesting racial practices were charged with felony offenses like Mob violence. Prosecutorial discretion in charging has to exist, but the exercise of that discretion should not result in discrimination based on the accused's racial or political identifications.
2. See, for example the Oregon Supreme Court decision reported in the article, "National Association of Criminal Defense Lawyers Helps the Oregon City Fifteen" by John Henry Hingson III, in Criminal Defense, July-August 1977 p. 16-18.
3. Court appointment of counsel and pro bono work by private law firms are two examples of time honored legal services to indigents.
4. Many jurisdictions do not have public defender agencies but rather contract with private non-profit legal corporations that provide the required legal services for indigents.
5. Ct Gideon v. Wainright, 372 U.S. 334 (1963) & Argerslinger v. Hamlin, 407 US 24 (1972) for adult right to counsel; In re Gault, 387 US 1 (1967) and In re Winship, 397 US 358 (1970) for juvenile right to counsel.
6. NBA Criminal Justice Hearings - Nov. 17, 1977 Oakland, Calif.; Dec. 3, 1977 Houston Texas; Dec. 10, 1977 Chicago, Illinois; Dec. 17, 1977 Newark, N.J.

7. NBA Criminal Justice Hearings
8. The individual responsible for hiring and promotions at one prosecution agency noted that half of the resumes from Black applicants were given him by a Black supervising prosecutor in the agency. That prosecutor should be commended for his efforts in referring minorities for employment. However, that kind of heavy dependence on employment referrals by minority individuals does not constitute a systematic or affirmative approach to increasing minority criminal justice employment, particularly in light of the few minorities in prosecution and defense to do that referring.
9. The individuals were introduced to each other at one of the NBA hearings. One of the career placements officers at the University was new to his position and made note of the fact that no lines of communication existed for new personnel.
10. NBA Criminal Justice Hearings.
11. One minority individual applied for a job as investigator with a State's Attorney's office and was told that he met the agency's qualifications and was one of ten finalists for the position. In his rejection letter he was told he was not qualified for an investigator position. The minority applicant practiced the Islamic religion and this became known in the intervening time between application and rejection.
12. One recruiter for a large prosecution agency talked about the two-stage recruitment process that he used; he recruited minority attorneys and from that group, offered employment to those he determined to have trial practice potential.
13. In 1970, minority enrollment in the nation's law schools totalled less than 4%. (2.6% Black; 0.7% Hispanic; 0.6% Asian-American; and less than 0.1% American Indian). In 1977 the percentage was 8.4 counting all minority students. Minority enrollment has leveled off since 1974. See US Commission on Civil Rights Toward Equal Educational Opportunity: Affirmative Action Programs at Law and Medical Schools, June, 1978, p. 21, 79.
14. NBA Criminal Justice Hearings.
15. NBA Criminal Justice Hearings.

16. See for example The Mexican-American community responses to the short sentences given to the police officers involved in the Joe Campas Torres case in Houston, Texas. Washington Post, March 29, 1978 p. A7.
17. NBA Criminal Justice Hearings.
18. See Jonathan D. Casper, Criminal Courts: The Defendant's Perspective, NILECJ, Feb. 1978 p. 16ff.
19. NBA Criminal Justice Hearings.
20. NBA Criminal Justice Hearing, Houston, Texas.

LAW ENFORCEMENT

The following discussion will focus upon the staffing patterns and employment practices utilized by the police departments of our eight target cities. Each position within a department was reviewed to determine its impact upon the administrative decision making process. As a result of the review of the organizational structures, we designated the ranks of captain and above as the policy-oriented executive level positions within law enforcement. We examined the staffing patterns in each department to determine the current staffing levels, and to identify the absence or presence of minority persons employed in key positions.

Initial employment and promotional advancement within a given agency is directly affected by the employment practices and procedures utilized by the agency. Therefore, the National Bar Association conducted a review of employment practices and procedures utilized by each department to determine their effect upon minority staff participation in the decision making process. Analysis of employment practices sought to determine when they were utilized by the office of personnel; how they were implemented; and the effect they had upon minority candidates. The following statements are the result of the review conducted by the National Bar Association.

Minority Representation

Within the law enforcement departments reviewed by this study, minority staff participation was grossly underrepresented particularly in the ranks captain and above. The nature of the

problem is best illustrated by reviewing the staffing patterns of three cities.

In the nation's capital, Washington, D.C., minorities constitute 73% of the population. Blacks constitute 71% and Spanish surname individuals represent 2%. However, a review of the District of Columbia Metropolitan Police Department (DCMPD) staffing pattern indicates the need for minority participation. Within the DCMPD there are 49 captains, 6 are Black; of 18 inspectors, 2 are Black; of 12 deputy chiefs, 3 are Black; one of 4 assistant chiefs is Black and the newly appointed chief is the first Black person in the history of the department to serve in that capacity. Within the above stated positions there was a complete absence of Spanish surname persons.

The second city, Oakland, California, had a population of 361,561 persons in 1977. Minority citizens represent 47% of that total population--Blacks 34%, Spanish surname 9%, Asians and others 5%. However, the police department does not have a minority person above the rank of sergeant. During the course of our review a Black Deputy Chief, the only minority above the rank of sergeant, resigned to become Chief of Police in another city.

The City of Baltimore, Maryland has a population of approximately 905,759 of which minorities constitute 47%. Blacks represent 46% and Spanish surname individuals represent 1%. However, of 18 captains, 2 are Black; of 9 district commanders, 2 Black; of 12 directors, 2 are Black; of 3 deputy chiefs, 1 is Black; 4 chiefs, none are minority; of 3 deputy commissioners, 1 is Black.

Lack of Commitment

The implementation of law is the most basic function of police departments. However, serious questions are being raised throughout this nation as to the will of law enforcement agencies to abide by and enforce equal employment opportunity laws. This discussion is not new to police administration. In 1960 the federal government launched official inquiries into the causes of crime. Chief among the President's Commission on Law Enforcement and Administration of Justice was Attorney General Nicholas deB Katzenbach. Its report, The Challenge of Crime in the Free Society, published in 1967 cited the need for:

"The establishment of strong community relations programs, review of all procedures in light of their effect on community relations, recruitment of minority group members, and strengthening of community confidence in supervision and discipline..."

However, ten years later we find that many of the nation's state and local enforcement agencies are currently under investigation or suit by the Justice Department for civil rights, specifically equal employment opportunity violations. Included in the list are the Chicago Police Department, Maryland State Police, Virginia State Police, South Carolina State Police, New Jersey State Police, Philadelphia City Police Department and San Francisco Police Department. Review of our eight target cities indicates that five of the eight--Chicago, Houston, Washington, D.C., Baltimore and Oakland have been or are under suit for employment discrimination.

The commitment to equal employment opportunity (eEO) within law enforcement should be implemented for two reasons. First, eEO is the law and it must be implemented by all law enforcement agencies. Secondly, during our investigation we were made aware of the tremendous local tax financial and other costs of non-compliance law suite, much of which, if not all, is borne by the local tax payers. Specifically, the cost to the non-complying agency municipality includes the suspension of federal funds to the agency, the cost of man-hours that are used in hearings and data gathering, the cost of attorneys' fees, and the transfer of documents, etc. The ultimate cost of such procedures are borne by the local taxpayers.

The realization of equal opportunity in employment within law enforcement agencies can become a reality if the chief administrators are committed. Those who select and appoint the chief administrators of law enforcement agencies lack objective guidelines for hiring and firing such persons. The absence of such guidelines reaches beyond the eight agencies reviewed. National concern on the issue has resulted in the International Association of Chiefs of Police receiving a grant of \$451,000 from LEAA to develop model guidelines for selecting chief executives and assisting chief executives from LEAA. However, the drafting of model guidelines are but words on paper unless the will to act is present.

Promotional Procedures/Practices

Advancement within law enforcement agencies requires a working knowledge of local civil service rules and an understanding of law enforcement promotion and procedures. Each of the eight departments reviewed utilized central municipal personnel offices to recruit, hire, and promote police staff. Each department, however, influences these processes directly or indirectly. Specifically, the municipal personnel office either assigns an analyst to work with the department or places staff persons in the department to handle their personnel needs.

A problem with such a system is tailoring of promotions/job descriptions. The tailoring of job descriptions is a sophisticated method of subverting the system which enables commanding officers to basically hand pick an individual for promotion. Such a practice has a negative effect upon minorities since they are recent entrants into the system, and because senior minority officers (time on force) have been effectively excluded from the buddy system. A good example of the tailoring system is described by Chief Burtell Jefferson of Washington, D.C. Prior to becoming Chief of the Metropolitan Police Department, Washington, D.C., Mr. Jefferson contributed to Black Crime: A Police View published by the Joint Center for Political Studies. Speaking on the issue of promotions within law enforcement Mr. Jefferson stated:

"Discriminatory practices to exclude Blacks from elite units are varied and are often covert. 'Tailor-made job descriptions' and special qualification requirements have been used effectively. The selection of aspirants may be covertly controlled by delegating authority to commanding officers of staff units to hand pick members. Special interest groups inside and outside the department can apply pressure for the selection of specific individuals often less qualified for the job."

Serious examination of personnel promotional requirements and testing procedures has been and are constantly being challenged in the courts. As stated earlier such suites are costly and time consuming. Law enforcement agencies could negate this waste of tax dollars by discarding the tailoring of job descriptions, by excluding unnecessary in-service time requirements, and by complying with established job relatedness standards for hiring and promotional examinations.

Supervisory Assignments

The absence of minority officers employed at the rank of captain or above is directly related to negative or unfavorable personnel evaluations by supervisors. In large measure, the problem with heavy reliance on supervisor evaluations has been their subjectivity.

The concept of evaluating employee performance is a very necessary and viable tool. However, personality contests are no benefit to either the agency in question or the public to whom law enforcement officers are sworn to serve. The depth of problems is well illustrated by the findings of the Institute for Urban Affairs and Research of Howard University which conducted a study on the attitudes and perceptions of minority law enforcement officers. The focus of the study

was the Metropolitan Police Department of Washington, D.C. Nine hundred and nine individuals responded to questionnaires on suitability ratings given Black and white officers. Eighty five percent felt that there was a difference between the suitability ratings given Blacks and whites.

The effects of negative or less than average suitability ratings is devastating to a promotional aspirant. In some jurisdictions, such as Oakland, California, a person filing to compete in a promotional examination must have maintained an overall service rating of standard or above for a period of at least one year immediately prior to the date of examination. Further, candidates for promotion must have maintained a clear record of any disciplinary action for a period of one year prior to the date of examination.

Some agencies such as the Baltimore Police Department utilize a weighted system which does not penalize a promotional aspirant before testing. Under this system a candidate with less than favorable suitability ratings is permitted to take the promotional exam and oral interview if he passes the written. However, the denial of points for negative assessments, coupled with review of the suitability ratings by oral board traditionally denies such candidates promotion.

Therefore, under either system a promotional aspirant with a fair or less than favorable performance assessment will not be promoted. Minority aspirants have borne the brunt of subjective personnel evaluations in disproportionate numbers. The inability of a given officer to follow departmental rules and regulations should be reprimanded. However, the extensive number of oral

and written reprimands given to minority officers directly affects the composite personnel evaluation that such officers receive. Therefore, we find few if any minority officers receiving promotions because they have been the subject of negative personnel assessments. The formula of multiple reprimands and negative personnel assignments equal no promotions, can best be illustrated by the Oakland Police Department.

The City of Oakland does not currently have a minority candidate above the rank of sergeant. During fiscal year 1975-76 there were a total of 96 Black officers on a force composed of 688 sworn persons--a proportional representation of approximately 14%. Twenty-nine percent of all oral reprimands and 40.6% of all written reprimands were against Black officers. There are 38 sworn Spanish surname officers, who represent 5.5% of the total sworn force. They received 10.7% of all oral reprimands and 9.4% of all written reprimands. The negative equation stated above is rule rather than exception as applied to minority law enforcement officers.

Promotional Training

Promotability within law enforcement agencies throughout the nation depends upon an officer's exposure to the multiple disciplines applicable to police work. Divisions such as Criminal Intelligence, Crime Analysis, Planning and Research, Operations, Traffic, Administration and Services are all highly specialized and technical and require some practical training. In order for an individual to receive career ladder training he must first meet in-service time requirements and apply for and receive supervisory approval. Because

as noted earlier, minority officers very often have had negative supervisory assessments, it is not surprising that our data indicates that minority officers have received little or no career ladder in-service education.

The rationale for limitations on the number of individuals who can receive such training is cost to the agency. Police departments like other local agencies function under tight budget constraints. Therefore, the removal of a line officer from his post and cost of providing quality training is an economic burden that is carried by the department.

However, such cost has no relationship to the selection process which identifies who is to receive the training. Once again we found that subjectivity by supervisory staff determined who would receive training. Exemplary courses such as supervisory school, middle management courses, supervisory seminars, command officer seminars, etc., are relied upon by many agencies to determine fitness for command. The denial of such training makes moving up extremely difficult if not impossible.

PROBATION

Probation as an alternative to institutional corrections has existed for nearly 150 years. Early probation systems were primarily voluntary affairs where concerned community individuals would ask courts to release certain offenders, usually misdemeanants, to their custody. The earliest state financed and staffed probation agency was established in Massachusetts in 1878.¹

The basic assumption in non-institutional corrections is that rehabilitation of some offenders is possible; that some individuals though having committed offenses need not or should not be imprisoned. It is assumed that such individuals can be reformed by allowing them to remain within the community but under various degrees of supervision and support. Economic benefits accrue to the state from the use of probation in lieu of incarceration in that penal institutions are expensive to create and to maintain when compared to probation services. And given the severe overcrowding in many penal institutions today, use of probation as a correction alternative is more than desirable but necessary.

The NBA investigated the presence and absence of minorities, particularly as decision makers in probation agencies that serve the eight target cities selected for study. As part of that inquiry the NBA isolated those factors that are related to minority employment in probation agencies. However, before discussing minority employment and related factors, some comment need be made about the affinity between probation departments and judicial systems

The traditional relationship between courts and probation agencies in the United States stresses the supportive and subservient role probation departments play within judicial systems. Generally probation agencies are a part of state court's non-judicial personnel systems. In fact, in seven of the target cities which the NBA studied,² the local judiciary had the statutory authority to appoint the chief administrator of the local probation department.

Probation departments as adjunct to the judiciary provide services that include pre-sentence interviewing and investigation, subsequent preparation of pre-sentence and predisposition reports on adult and juvenile offenders, recommendations to courts concerning probation applicability, supervision of adults and juveniles on probation and the delivery of support services in employment and education to probationers.

With the exception of the District of Columbia, those probation agencies studied were county operations. Policy makers within those agencies had responsibility for supervision of professional personnel, supervision of in-house and field services, administration of juvenile sections and camps and budget management.

In its investigation the NBA found that minorities were underrepresented in probation agencies, particularly at the policy making level. For example, in the Essex County Probation Department which provides probation services for Newark, New Jersey, 100% of all personnel in positions above the Principal Probation Officer I level, i.e., the positions of Chief Probation Officer, Assistant Chief Probations Officers and Administrative Analyst, were white during the NBA study period 1973-1977. Newark, New Jersey has a population which is over 38% minority.

For positions below the top policy making level, minorities were also underrepresented. In 1973 only 1 out of 7 of the Principle Probation Officer I personnel were minority; only 4 out of 19 Principle Probation Officers II were minority; only 14 out of the 51 Senior Probation Officers were minority and only 11 out of 95 or 11.6% of the Probation Officers were minority. In 1977 with the exception of the Principle Probation Officer II position where minority representation went up 3.9%, minority representation in the Essex County Probation Department actually decreased. At the Principle Probation Officer I level, a higher position than Principle Probation Officer II, minority representation in 1977 went down to 11.1%. Minorities held only 17 out of 74 positions at the Senior Probation Officer level and were only 10 out of 106 or 9.4% of the Probation Officers.

Another example of minority underrepresentation in probation agencies can be found in the Alameda County, California (Oakland) Probation Department. While Spanish surname individuals comprise 13% of the county's population, there are no Spanish surname individuals at the official/administrator or top policy making levels within the county probation department.

Factors Which Hinder Employment

The prevalent cause of underrepresentation of minorities in probation seems to be the lack of full scale, coordinated minority recruitment efforts by probation agencies. That lack of effort must, however, be viewed within the relationship that probation agencies have with judicial systems.

In recent years courts have come under increasing attack for their attitudes toward implementation of equal employment laws within judicial systems. They claim a kind of judicial immunity

from equal employment and civil rights compliances, based on separation of powers arguments. That being the case, probation departments, which generally fall within court personnel systems, do not have the impetus for affirmative action efforts that strong backing from a concerned judiciary could provide. That lack of commitment to affirmative action coupled with insubstantial minority recruitment efforts has a profound effect on minority underrepresentation in probation.

Factors Which Hinder Upward Mobility

Our investigation found that where minorities are employed in probation agencies the nature of those agencies and some of their personnel practices undercut the career advancement potential for these minority individuals.

Probation agencies are usually decentralized in their organizational structures, having a number of sub-units which have different functions and responsibilities. Hiring is generally done in response to specific requests by the various sub-units to replace staff. Such procedures seem innocuous at first glance but, they often result in individuals, a greater portion of them minority individuals, assigned to probation sub-units or divisions with high staff turnover rates. In addition, there is a tendency to assign minority personnel to those divisions where clientele are preponderately minority e.g., high percentages of minority personnel are assigned to protective services and field services units. These are probation divisions that provide staff for juvenile camps and neighborhood centers. The fact that minority personnel are employed in significant numbers in protection and field services is not problematic per se but, once an individual is hired in a particular division it is difficult to departmentally

transfer, which means that minority individuals hired to replace staff in protection and field units do not generally have the full range of career upward mobility options that would be possible if probation departments maintained agency-wide career ladders with liberal departmental transfer opportunities.

Departmental transfer is important to career advancement in probation because probation agencies tend to have low turnover rates at mid and upper management levels. If individuals are to take advantage of promotional opportunities as they arise and wherever they arise in the agency they must be able to easily translate experience gained in one department into prerequisites for general advancement within the agency. Under current hiring and promotional procedures, minorities are generally hired and promoted in limited areas within probation departments. For example, in the Alameda County Probation Department six of the twenty one positions classified in the official/administrator category are held by minorities. But, four of the six or 67% are in protective services. The positions they hold such as Camp Director and Assistant Camp Director are low to mid-level administrative positions in probation.

The possibility of liberal departmental transfer is undercut by the inadequacy and in some cases, the absence of in-service training in probation.³ In-service training is a necessary component to any promotional ladder. It facilitates the development of professional skills that may be important to one's present job as well as requisite to advancement or transfer within the agency. The absence of adequate in-service training while affecting all probation staff, hinders the upward mobility of minorities in particular given where they tend to be employed in probation agencies.

The underutilization of lateral transfer is a factor that seems to hinder minority upward mobility in probation agencies. Lateral entry is an employment practice which allows an individual to leave one agency and enter another at comparable or higher salary and grade. In essence, the skills and experience the individual gains in the former agency are considered comparable to those which could be gained at the lower levels of the second agency. Probation agencies might be able to attract more minorities to mid and upper management levels if lateral entry were simpler.

The NBA recognizes that greater use of departmental and lateral transfer procedures cannot simply be mandated. To be sure, greater use of such procedures are a first step, i.e., for policy making positions that do arise, recruitment could be expanded to include departmental and lateral transfer options. But the heavy preponderance given to seniority considerations in upward mobility in probation not only directly undercuts minority upward mobility but indirectly affects lateral and departmental transfer as well.

Seniority has its merits--experience within the probation field is a valid consideration in upward mobility because the nature of probation services requires knowledge of those services and knowledge of the dynamics of probation and judicial systems. However, those knowledge requirements are not so unique as to preclude seniority or experience in other, but related professional areas. The NBA does not advocate any specific field but experience in social work agencies or even other criminal justice agencies might be appropriate background for mid or even high level management positions in probation. This may be very appropriate given

the fact that seniority requirements perpetuate the impact of past discriminatory hiring practices against minorities.

One other factor seems to inhibit upward mobility of minorities in probation. The NBA found that criteria for evaluation of staff performance in probation put heavy reliance on subjective assessments by supervisors. A "feel" for how well employees are performing their duties on the part of supervisors is legitimately a part of evaluation. However, minority professionals in probation complain of subjective evaluations that go beyond acceptable bounds, and are not tied so much to job performance as they are to notions by supervisors concerning minority personnel and their job performance. Minority professionals complain of the lack of clear evaluation standards to limit supervisor subjectivity in assessments of job performance.

PROBATION FOOTNOTES

1. Two Hundred Years of Criminal Justice: An LEAA Bicentennial Study. U.S. Department of Justice, LEAA, 1976 p. 53-54
2. Atlanta, Georgia is the exception. There, the Commissioner of the State Department of Offender Rehabilitation appoints the Director of Community Based Services, the County Probation Department. However, the Chief Administrator for Juvenile Probation is appointed by the Court. See State and Local and Parole Systems, U.S. Department of Justice, LEAA, NCJISS, February 1978 p. 121.
3. NBA Criminal Justice Hearings, 1977.

EDUCATION

In the decade since 1968 there has been a tremendous increase in the number and size of criminal justice academic programs in the United States. As of 1978 there are an estimated 1300 criminal justice education programs in existence at the collegiate level. Enrollment in these programs exceeds 106,000 full-time students and 74,000 part-time students.¹

As early as 1908, a program to provide training for prospective police officers existed. That program and other such efforts were the prototypes for present day police academies.² However, the burgeoning in the number and scope of criminal justice programs began in the late 1960's.

The primary impetus for this growth has been the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, as amended). One aspect of this act is a mandate to the Law Enforcement Assistance Administration "to make grants and loans to criminal justice personnel who wish to further their education and to those desiring to enter criminal justice professions"... and "to expand the number of institutions offering studies related to criminal justice". In fiscal year 1974 over \$44 million in aid was given to more than 95,000 individuals to further their criminal justice education.³ And between 1967 and 1978, an increase of more than 400% occurred in the number of criminal justice degree programs.⁴

Because of the saliency of criminal justice education to criminal justice employment, the NBA investigated minority participation in criminal justice education programs and education planning. The core

concerns in that investigation were the extent and continuity of minority enrollment and minority staffing in criminal justice education programs and factors related to that participation.

Thus, the NBA identified those colleges with criminal justice programs in the District of Columbia and the six states that encompass the eight NBA target cities: California, Georgia, Illinois, Maryland, New Jersey and Texas. Those institutions were sent questionnaires that solicited information on white and minority enrollment and staffing in their criminal justice programs during the five year period from 1973 to 1977. Criminal justice educators were contacted individually for information on minorities and criminal justice education, and testimony on criminal justice education was heard at NBA hearings across the country.

Two lines of inquiry developed in this investigation:

1. An examination of controversies in criminal justice education as they relate to minorities
2. A discussion of factors that affect minority enrollment and staffing in criminal justice.

There are as well other educational thrusts for criminal justice personnel and potential personnel beyond undergraduate and graduate degree programs. For example, LEAA supports through its grants mechanisms educational programs on the national and state level which can be categorized as specialized professional development and training programs. A significant number of these programs are designed to enhance the professional skills of practitioners in the courts area of the criminal justice system including judges, attorneys and court management personnel. Among such programs are those conducted by the National College of District Attorneys, the National College of

Criminal Defense Lawyers and Public Defenders, the Institute for Court Management and the National College of the State Judiciary. LEAA supports as well training and development programs for personnel in other areas of the criminal justice system.

Limited time and resources precluded an investigation of minority participation in criminal justice professional development and training programs however, such an inquiry would be meritorious, particularly in light of the recommendations from the National Manpower Survey of the Criminal Justice System which urge that priorities in funding for criminal justice education programs emphasize professional development programs.⁵

Controversies in Criminal Justice Education

The basic goals in criminal justice education planning are two fold: the development of criminal justice programs, curricula and staff at colleges and universities on par with other academic programs;⁶ and the upgrading of personnel in criminal justice⁷ through their enrollment in and graduation from criminal justice education programs.

The Law Enforcement Assistance Administration (LEAA) recognizes that minority participation in criminal justice is substantially below the ratio of minorities in the population and that criminal justice agencies have "seriously lagged in recruitment" to increase that participation.⁸ Minority participation in criminal justice education

is no exception to these shortcomings. The education planning goals discussed above are applicable to efforts to increase minority participation in education, but the NBA found that there is no concerted or unified effort to effectuate change in the level of minority participation in criminal justice education in terms of both minority staffing and enrollment.

Part of the reason for the lack of concerted effort is ambivalence as to how to approach the problem of low minority participation in education. LEAA has not decided if the best approach is to make funds available to colleges with predominantly minority enrollment and staffing or to support colleges that are predominantly white and try to attract minority students and staff to those criminal justice programs. To some extent, LEAA has tried to do both. And while the NBA has not found that one method should be preferred over the other, neither approach has resulted in a significant increase of minorities in criminal justice education, albeit for different reasons.

The section within LEAA which has responsibility for criminal justice education planning is the Office of Criminal Justice Education and Training. That office administers the Educational Development Program, the Law Enforcement Education Program (LEEP), the Graduate Research Fellowship Program, and the Internship Program and some training programs.

The Office of Criminal Justice Education and Training grew out of a task force which investigated education initiatives by LEAA. One recommendation of that task force was that education initiatives

be institutionalized within LEAA. The result was the creation of the Office of Criminal Justice Education and Training in late 1975 with administrative responsibility over LEAA educational programs.

As mentioned above, the Office of Criminal Justice Education and Training is ambivalent in its approach to minority participation in criminal justice education. Through this office, LEAA's efforts to fund minority colleges have been limited to one organization, Positive Futures, Inc. (PFI)⁹ -- which is a consortium of ten historically Black colleges.¹⁰ Nine of the PFI schools participate in a criminal justice consortium.¹¹

The immediate objective of the PFI Criminal Justice Consortium is to aid its nine member colleges in the development of criminal justice baccalaureate programs that meet the standards for accreditation set by the Academy of Criminal Justice Sciences. The development of these programs are to have two results: an increase in the number of minorities with the prerequisites for professional and administrative positions in criminal justice agencies and improvement in opportunities for minorities to pursue advanced degrees in criminal justice.

The NBA found that PFI efforts to increase the number of minorities with baccalaureate degrees in criminal justice have been commendable. The PFI central office has developed a set of recommendations for curriculum development in line with the Academy of Criminal Justice Sciences Accreditation standards. Five of the

PFI Criminal Justice Consortium schools have developed baccalaureate programs¹² and are trying to achieve the curriculum development objectives embodied in the central office recommendations. Another of the PFI schools, Miles College, offers a minor in criminal justice and Grambling University is seeking formal approval of its criminal justice baccalaureate program from the Louisiana State Board of Trustees and Regents.

In addition, PFI has created the National Technical Advisory Team (NTAT) and local Advisory Teams (LAT) at each of the nine member colleges. The NTAT is composed of educators and practitioners in criminal justice who provide technical assistance with curriculum development and support services, examine and critique educational work plans and areas of concentration and provide guidance and advice on criminal justice policy issues. The NTAT has also held several development and training seminars for criminal justice directors at the member colleges. Local Advisory Teams address local demands and needs by reviewing and recommending curricula and linkages to graduate school programs, by assisting in faculty recruitment and in development of funding sources along with the NTAT.

PFI has also engaged in other activities geared toward greater participation of minorities in criminal justice. It has held six state seminars¹³ to focus attention on criminal justice education efforts at its member colleges, to establish lines of communications with state criminal justice agencies and personnel, to identify intern and employment possibilities for graduates of consortium schools and to get feedback on PFI development activities. PFI has also

contacted noted criminal justice educators for their suggestions and assistance with PFI efforts. It has also developed audio/visual presentations to publicize the consortium efforts and to aid the member schools in recruitment efforts.

These efforts by PFI are laudatory. However, the NBA found that limitations of funding for minority colleges and other constraints imposed by the Office of Criminal Justice Education and Training have hindered the increase in the number of minorities with criminal justice degrees. The NBA found four dimensions to these impediments.

1. While minority colleges matriculate half of the minority graduates annually, PFI is the only program funded by LEAA for criminal justice programs at minority colleges. The NBA found a gross disparity in the amount of funding for criminal justice programs at minority colleges compared to funding for predominantly white colleges. The National Minority Advisory Council on Criminal Justice took note of this unequal treatment of minority colleges at its public hearings in Washington, D.C. in 1977.¹⁴ It was noted, for example, that from February 1976 to June 1977 PFI received \$752,000 in LEAA funds. Part of those funds was a six months planning grant to determine the feasibility of a criminal justice consortium of minority colleges and related issues. The remainder of these funds and an additional \$503,000 for the period August 1977 to August 1978 were to cover consortium expenses and all expenses related to the creation and functioning of criminal justice programs at the nine minority colleges.

However, the National Criminal Justice Consortium, a consortium of seven predominantly white colleges received \$5 million to develop and strengthen their criminal justice programs in the three year period between 1973-1976.¹⁵ In short, the seven predominantly white colleges received over 400% more money than the minority colleges received for their criminal justice educational development. Furthermore, in Fiscal Year 1974 alone the consortium of white colleges received \$530,000 in student support funds.¹⁶ The consortium of minority colleges has received no support funds for its students during any period of its existence.

The minority colleges have the same invariable costs associated with the development of an academic department or program as do predominantly white universities. The costs associated with the creation of adequate criminal justice libraries, the acquisition of adequate space, the attraction of qualified staff, the providing of student support services, and other requirements to meet Academy of Criminal Justice Science accreditation do not substantially vary from one institution to another. Minority colleges tend to have more limited economic resources than their white counterparts and are not able to divert general institutional funds to criminal justice programs in such amounts as to compensate for inadequate funding by LEAA.

Thus a policy that grants minority colleges less than one-fourth the amount needed for criminal justice educational development impacts negatively on the viability of criminal justice programs at minority colleges.

2. Another circumstance (which is related to the existence of funding disparity between minority and white schools) adversely affects minorities in criminal justice education. The NBA found that the consortium of minority schools is required to do very difficult tasks with comparatively low funding.

The original PFI objective was the establishment of communication networks, and of staff and student transfer procedures so that the nine minority colleges should, in essence, pool their resources when it came to criminal justice. The development of core course series was proposed but not the establishment of degree programs.

In June 1976 LEAA's Office of Criminal Justice Education and Training informed the schools that their coordinated education, planning and information objectives would not directly solve the problem of low minority employment in criminal justice. After negotiations with LEAA, the consortium's objectives were changed to reflect LEAA concerns: the minority colleges were expected to have criminal justice baccalaureate programs in operation by the fall of 1977.

It is our judgement that requiring nine colleges to develop that many criminal justice programs without providing adequate funding to facilitate that development is an unnecessary hardship on minority colleges and their efforts to develop high quality criminal justice programs.

3. As noted above, minority colleges were required to have criminal justice baccalaureate programs in operation by the fall of 1977. Since the negotiations between LEAA and PFI which resulted in changes in the minority colleges' educational goals occurred in the summer of 1976, the minority colleges were given a little more than a year to create nine criminal justice programs. That period of time is extremely short given the time requirements for developing and implementing any academic department and given the financial hardships under which the minority colleges are operating.

PFI has developed a set of curriculum development recommendations in line with Academy of Criminal Justice accreditation standards and all the schools, those which have developed criminal justice programs, are trying to reach the capability objectives in those recommendations. As of the writing of this report, five of the consortium schools have developed baccalaureate programs.¹⁷ Another school, Grambling University, is seeking approval of its

proposals from the Louisiana State Board of Trustees and Regents. Miles College, another consortium school offers a minor in criminal justice. But two consortium schools, Talladega College and Fayetteville State University, given the time constraints on program development may be forced to withdraw from the consortium or change their roles within it.

4. The NBA found that albeit the constraints upon them, minority colleges have made considerable progress in their criminal justice program development. However, funding for the consortium ends in August, 1978. As of the writing of this report there are no indications that additional funding will be made available by the Office of Criminal Justice Education and Training for minority colleges to continue their programmatic efforts. The NBA found that lack of additional funding will have a negative impact on criminal justice programs at minority colleges.

This discussion has centered on LEAA's effort to facilitate criminal justice programs at minority colleges. There are many criminal justice programs at predominantly white institutions that were created and are maintained through LEAA funding. The Office of Criminal Justice Education and Training identified one of those programs as an effort in part to address the problem of low minority

participation in criminal justice education. That program is the Training Program in Criminal Justice Education at the State University of New York (SUNY) at Albany, Graduate School of Criminal Justice. The Instructor Training component of that program is to train three cadres of twenty college instructors from predominantly minority institutions in the three year period from 1977-1980. Trainees in each group receive four graduate credits for participating in training sessions over a year period. The trainees are to provide their respective institutions with curriculum development expertise as a consequence of their exposure to recognized authorities in the criminal justice field during their SUNY-Albany training.

One other component of the SUNY-Albany criminal justice program could impact on minorities. That is the SUNY-Albany internship program. In order to receive teaching certification, individuals earning M.A. degrees in criminal justice are required, after they complete course work, to spend two semesters teaching at various host colleges. Minority colleges, if they are approved by SUNY-Albany, could serve as host colleges. It is possible that some M.A. graduates, based on their internship experiences at minority host colleges, might decide to seek permanent employment at those minority colleges.

Thus, in theory, these two aspects of the SUNY-Albany program are to increase the level of minority participation in criminal justice.

All schools in the six states that encompassed the project's target cities and the District of Columbia which have collegiate level criminal justice programs were sent information sheets which requested staffing and student enrollment figures by race for the five years from 1972 -- 1977, (See Appendix) 276 information sheets were sent out. Of those that responded more than over half did not keep records on the racial or ethnic identity of staff and students. Of those schools which kept any statistics, those figures in the majority of cases did not cover the entire five years from 1973 -- 1977 or were "guess-estimates" by school officials.

Thus, we found that statistics on minorities in criminal justice education programs are incomplete and inadequate. The Office of Criminal Justice Education and Training does keep some data on LEEP fund accounts. While those accounts do distinguish between white and Black recipients, the records that do exist are only kept in aggregate form by years i.e., there is no breakout of race by educational institution.

There is no requirement that educational institutions that receive LEAA funds maintain records on minority enrollment or staffing. The NBA found that the information colleges do keep on minorities in criminal justice education is incomplete and inadequate. Responses to the NBA questionnaire show that since institutions are not required to do so, many do not keep information on minority admission, enrollment, graduation or staffing. The absence of any minority data-keeping requirements made it difficult to determine the extent to which criminal

But any program which is to be successful in increasing the number of minorities in criminal justice education has to be cognizant of several things. First, is the importance of locale. The State University of New York at Albany is located in an overwhelmingly white and predominantly rural setting, a fact which does not offer the best inducement to minorities to attend. Second is the importance of having minority input in the development and implementation of the program. To our knowledge, the SUNY-Albany program had no minority input in its development and has little such involvement in its administration. This fact detracts considerably from its success potential vis-a-vis minorities.

These are very important considerations if good faith efforts are to be made to further minority participation in criminal justice education. It would appear that LEAA has not adequately taken into account these concerns in its funding of predominantly white schools who are to devote a part of their resources to training minorities in criminal justice.

Factors in Minority Enrollment in Criminal Justice

The NBA found that the controversy in how to approach the problem of low minority participation in education does affect educational planning to increase that participation. However, there were other factors which were found to affect that participation directly and indirectly.

One direct factor in low minority participation in criminal justice education is LEAA's funding priorities for financial assistance to those wanting degrees in criminal justice. Priority is given to in-service personnel with the result that in 1974, 90% of all Law Enforcement Education Programs (LEEP) grant recipients were in-service personnel.¹⁸ Now all LEEP grant recipients are in-service with the result that individuals who are not employed in the criminal justice system, i.e., those who are pre-service cannot get LEEP grants to acquire degrees in criminal justice.

The NBA found that giving preference to in-service personnel has a detrimental effect on the participation of minorities in criminal justice educational opportunities. Limiting grants to in-service personnel reinforces the effects of past systemic discrimination which deprived minorities of employment in criminal justice positions. By providing grants only to in-service personnel, who are predominantly white, LEAA puts minorities at a financial disadvantage in their attempts to gain entry in criminal justice fields. Minorities who want to begin careers in criminal justice must apply for loan funds.

In addition to minority access to criminal justice programs, the NBA investigated the actual participation of minorities in such programs. That investigation looked at both aspects of that involvement: participation as staff and participation as students.

justice education programs are making good faith efforts to attract minorities to such programs.

This fact, coupled with LEAA funding priorities that are disadvantageous to minorities, has not led to substantial improvement in the level of minority participation in criminal justice education.

FOOTNOTES

1. Richard W. Kobetz, Asst. Director, Bureau of Operations and Research, International Association of Chiefs of Police, Criminal Justice Education Directory, 1978-1980 (hereinafter cited as Directory), p.4
2. August Vollmer, Town Marshall of Berkeley, California is credited with creating one of the earliest programs in 1908. His police training program later developed into the Berkeley Police School. See Directory, p.2; Two Hundred Years of American Criminal Justice: An LEAA Bicentennial Study, p.22.
3. Sixth Annual Report of LEAA, Law Enforcement Assistance Administration, U.S. Department of Justice 1976, p.66.
4. Directory, p. 1.7.
5. National Manpower Survey of the Criminal Justice System: Executive Summary, p. 18. National Institute of Law Enforcement and Criminal Justice, LEAA, U.S. Department of Justice.
6. Accreditation Guidelines for Post-Secondary Criminal Justice Education Programs, 1976 Academy of Criminal Justice Sciences, Accreditation and Standards Committee.
7. Sixth Annual Report of LEAA p. 65.
8. See The National Manpower Survey of the Criminal Justice System: Executive Summary, p. 8, 9 National Institute of Law Enforcement and Criminal Justice, LEAA, U.S. Department of Justice.
9. Letter from the Office of Criminal Justice Education and Training to National Bar Association dated April 25, 1978.
10. Those colleges are Bishop College, Fayetteville State University, Grambling State University, Miles College, Mississippi Valley State University, Shaw College at Detroit, Shaw University, Talledega College, Texas Southern University, Winston-Salem State University.
11. Winston-Salem State University is not a member of the criminal justice education consortium within Positive Futures, Inc.
12. Bishop College, Mississippi Valley State University, Shaw College at Detroit, Shaw University and Texas Southern University.

FOOTNOTES (Cont'd)

13. These seminars were held in Texas, Louisiana, Mississippi, Alabama, Michigan and North Carolina.
14. National Minority Advisory Council, Vol. IV of transcripts, p. 76ff, June 18, 1977.
15. LEAA 6th Annual Report, p. 67, 68.
16. Ibid.
17. Bishop College, Mississippi Valley State University, Shaw College at Detroit, Shaw University and Texas Southern University.
18. LEAA 6th Annual Report, p. 67. In addition, 80% of the in-service grant recipients were police officers.

RECOMMENDATIONS

CRIMINAL JUSTICE SYSTEM OVERALL

1. There should be greater commitment on the part of criminal justice agencies and criminal justice related organizations to affirmative action in hiring and promotion. This commitment should be manifest by such activities as
 - (a) Issuance of public statements by top executives of criminal justice agencies and criminal justice related organizations confirming their commitment to affirmative action in hiring and promotion.
 - (b) Conducting thorough public assessments of affirmative action procedures and progress utilizing minority individuals and organizations as major participants in these evaluations
 - (c) Immediate adoption and implementation of affirmative action procedures by those agencies and sectors of the criminal justice system which have not previously adopted such procedures by those agencies and sectors of the criminal justice system which have not previously adopted such procedures e.g., court and ancillary court agencies
2. Criminal justice agencies and criminal justice system related organizations should establish and maintain cooperative relationships with minority organizations e.g., national civil rights organizations and their local affiliates, minority professional associations, for the development of programs designed to encourage and promote the recruitment, hiring, training and promotion of minorities within the criminal justice system. These cooperative relationships should encompass but not be limited to
 - (a) Significant minority participation on criminal justice agencies' and organizations' policy and advisory boards and committees
 - (b) Establishment of special national and local minority advisory committees
 - (c) Co-sponsorship of special projects and activities

COURTS

1. The U.S. Justice Department and other appropriate federal agencies should conscientiously enforce equal employment opportunity laws with regard to state court systems
2. All state court systems should immediately adopt and implement affirmative action policies and procedures for its administrative and ancillary agencies e.g., probation agencies
3. Minority organizations should institute public information and

education programs on courts as employers and closely monitor the staffing patterns of court systems.

4. There should be instituted a special national career development program in court administration* designed to
 - (a) inform minorities of career opportunities and options in court management
 - (b) identify minorities qualified to hold executive level court management positions
 - (c) establish mechanisms whereby minorities can obtain timely information about court management position vacancies and agencies seeking to fill positions can obtain information about qualified minorities
 - (d) significantly increase the number of minority individuals enrolled in undergraduate and graduate level educational programs in court administration
 - (e) establish pre-employment training opportunities in court management for minority students e.g., agency internships

PROSECUTION AND DEFENSE

1. Appropriate national legal organizations** and local prosecution and defense agencies should co-sponsor a career development program in public prosecution and defense designed to
 - (a) inform minority law students of career options, opportunities and benefits in public prosecution and defense
 - (b) establish and enhance pre-employment training opportunities specifically for minority law students e.g., clinical programs and agency internships
 - (c) Establish mechanisms whereby minority law graduates seeking positions in public prosecution or defense agencies can obtain timely information about position vacancies and agencies seeking to fill positions can obtain information about qualified minorities
2. Public prosecution and defense agencies should establish continuous systematic minority recruiting procedures which encompass
 - (a) continuous contact with historically minority law schools
 - (b) formalized cooperative relationships with minority legal organizations and minority law student organizations

*Appropriate sponsoring agencies include such entities as the National Center for State Courts, the Institute for Court Management, the National Bar Association, the Conference of Minority Public Administrators

**Appropriate sponsoring agencies include the National Legal Aid and Defender Association, the National Bar Association, the Asian Bar, the National District Attorneys Association, the Mexican American

Legal Defense and Education Fund.

3. Public prosecution and defense agencies should continually assess their qualification standards and the process of applying them to minority candidates for employment to be certain that the qualifications are indeed job related and do not have the effect of discriminating against minorities. These assessments should include significant minority participation.

END