

**A PLACE AT THE TABLE:
LATINO CIVIL RIGHTS TEN YEARS AFTER THE
MOUNT PLEASANT DISTURBANCES**

**Conclusions and Recommendations
of the Civil Rights Review Panel**

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Background

Ten years ago, a commentator on politics in the District of Columbia highlighted the marginalization of the Latino community:

This population is viewed and treated as politically negligible; they just don't count. Talk about a seat at the table? They're not even in the room. As long as this remains a continuing political fact of life, things will not change or improve.¹

The lack of political clout described by this commentator was reflected in the failure of the District government to ensure the inclusion of the Latino community in government services and in the economic and social life of the city. This precarious situation, and frequent civil rights abuses committed against Latinos, led eventually to an inevitable backlash on the part of the Latino community in the form of street protests in the Mount Pleasant Neighborhood of Washington, D.C. in May 1991.

The immediate incident that sparked the 1991 protests was a poorly executed arrest in Mount Pleasant, which resulted in the shooting of a Latino man by a District police officer. However, the strong reaction from the Latino community was a manifestation of frustration that stemmed from years of harassment, discrimination and violations of other basic civil rights.

Exactly ten years after the Mount Pleasant protests, in May 2001, a District of Columbia police officer shot two immigrants from El Salvador, killing one, on Sherman Avenue in the Columbia Heights neighborhood. This tragic incident served as a painful reminder that progress over the preceding ten years on the issues of civil rights and inclusion for the Latino community had been limited.

The Need for an Updated Civil Rights Analysis

After the 1991 Mount Pleasant protests, Latino community members came together in a Latino Civil Rights Task Force (the "Task Force") to make findings on the underlying causes of the disturbances and to report to the District's mayor and to the U.S. Civil Rights Commission. A team of pro bono lawyers, working under the auspices of the Washington Lawyers' Committee for Civil Rights and Urban Affairs ("the Lawyers' Committee"), provided support to the Task Force by preparing detailed analyses and testimony on a range of issues, such as the effect of immigration legislation on the Latino community and police brutality against Latinos.

The U.S. Civil Rights Commission issued a final report in January 1993 (known as the "Mount Pleasant Report"), largely adopting the findings of the Task Force and concluding that the District of Columbia government was responsible for abuses and discrimination against the Latino community. The Mount Pleasant Report led to some important improvements for the Latino community in the D.C. area. For example, the D.C. Police Department agreed to create a citizen advisory council, which included Latino representatives.

However, ten years later, many of the same problems identified after the 1991 disturbances continue to plague the Latino community. For this reason, in 2001, the Civil Rights Review Panel

¹ Mark Plotkin, WAMU Radio, May 9, 1991.

("the Panel") began working with the Lawyers' Committee and community representatives to look again at the civil rights issues affecting Latinos in the District of Columbia. The goal of this effort was to develop an updated analysis of the civil rights issues affecting the Latino community and to reach conclusions regarding the steps that should be taken to improve the situation.

Nine well-known area law firms agreed to work with the Review Panel, the Lawyers' Committee and community representatives to conduct in-depth studies of the following issues: 1) access to justice; 2) police abuse and communications with police; 3) access to education; 4) access to health services; 5) employment discrimination; 6) housing discrimination and barriers to homeownership, and; 7) immigration policy. The law firms were fortunate to be able to refer to and build upon a study prepared by the Council of Latino Agencies ("CLA"). The CLA study, also inspired by the ten-year anniversary of the Mount Pleasant disturbances, provided crucial data used by the firms in preparing their legal analyses and conclusions under the applicable civil rights laws.

The final reports prepared by the law firms have provided the Review Panel, the community and policymakers with invaluable information and recommendations. In addition, the collaborative effort of the Lawyers' Committee, the Review Panel, the law firms and community representatives has permitted the development of strong ties between the Latino community and the legal community that will allow for more effective advocacy to improve Latino civil rights, through legislative efforts, litigation and other methods.

General Observations of the Review Panel

In the last ten years, the number of Latinos in the District and surrounding areas has swelled, but growth in the population has not resulted in additional political power. Over the past decade, the Washington, D.C. metropolitan area became one of the top immigrant destinations in the country.² A significant number of those new immigrants were from Latin America, causing the existing Latino population to increase significantly. The 2000 Census calculated the percentage of Latinos in the District of Columbia at approximately 8%,³ and most analysts believe that this number still represents an undercount resulting from continued failings in Census methodology.

Nonetheless, ten years after the Mount Pleasant protests, virtually none of Mayor Anthony Williams's key advisers or agency heads is Latino. There are no Latinos on the D.C. Council, and a Latino was only recently appointed to the school board after a number of years in which such representation was lacking.

Adequate Latino presence on the District's police force is a critical factor in improving respect for the civil rights of Latinos. However, the number of Latino police officers on the Metropolitan Police Department force has remained essentially the same over the last decade, with Latino officers constituting only about 5% of the total police force. There are still so few Latino officers in the upper police ranks that the numbers constitute a significant embarrassment for the District's MPD. No senior management position, including Chief of Police, Executive Assistant Chief, Regional Assistant Chief, or Assistant Chief, is held by a Latino.

As for Latino representation in the District's public service positions, it is difficult to

² The Brookings Institution, *The World in a Zip Code: Greater Washington, D.C. as a New Region of Immigration* (April 2001).

³ U.S. Census Bureau, 2000 Census Data.

determine whether there has been any improvement, because the District neither internally tracks nor publicly reports data with respect to the numbers and percentages of Latino employees in the District's bureaucracy. This failure to track recruitment and hiring of Latinos persists despite the 1993 Mount Pleasant Report's explicit recommendation that the District government maintain this type of data.

In the past, a partial explanation for some of the marginalization of Latinos in the Washington, D.C. area was the newness and uncertain immigration status of this community. In comparison to cities like Los Angeles or New York, the District became a magnet for immigrants relatively recently.⁴ The significant Latino population began its real growth spurt in the 1980s as a result of turmoil in Central America. In addition, federal immigration policies fell with a disproportionate negative impact on the District's Latino immigrant groups during the 1980s and 1990s, making it difficult for those groups to regularize their status and obtain political clout.

However, this explanation for the exclusion of Latinos is no longer tenable. The vast majority of Latinos in the District are now either citizens or immigrants in legal status well on their way to citizenship.⁵

The relatively new status of the Latino population nevertheless makes it all the more important to aggressively seek out effective methods for including this community in the social, political and economic life of the District. It is unacceptable, from an ethical perspective, to allow factors beyond the control of the Latino community to prevent such a large population from achieving integration into society and full respect for their civil rights. From a practical viewpoint, it is in the best interest of the entire District community to ensure the economic, social and political well being of this sizeable population. Efforts to dispel the isolation of Latinos and provide them with better access to education, housing, health services and employment will increase the productivity of the District workforce, boost the quality of life of all D.C. residents and help to ensure the health, welfare and safety of the entire community.

Many of the District's policies and practices have a harsh effect on low-income persons generally and therefore on all races and ethnic groups. However, the Review Panel is convinced that the civil rights problems identified in the law firm reports have a distinct Latino face and voice resulting from their special impact on the Latino population.

This reality has consequences for the formation of a Latino civil rights agenda. There is absolutely no doubt that African Americans and Latinos should work together, along with other minority groups, to address civil rights issues as well as poverty issues. However, it is not necessarily the case that the Latinos are in the same situation as African Americans and should always adopt the same or similar strategies. Given the unique demographic makeup of this city, Latinos constitute a minority while African Americans do not. Many segments of the Latino community also face unique issues resulting from their status as immigrants and English language learners, which African Americans do not encounter.

On the other hand, it is clear that the Latino community should and does reject any efforts to

⁴ The Brookings Institution, at 2.

⁵ See, e.g., 1998 Statistical Yearbook of the Immigration and Naturalization Service (November 2000) (noting that well over half of the foreign-born in the metropolitan area have secured permission to remain in this country).

drive a wedge between Latinos and African Americans. Challenges to governmental action or inaction should never be seen as clashes between Latinos and Blacks or Latinos and Whites, even where the governmental actors involved may be Blacks or Whites. These conflicts should be seen as efforts by the Latino population to receive proper treatment from government and its institutions.

In working to improve the civil rights of Latinos in Washington, D.C., it should also be noted that the last decade saw a dispersion of Latino immigrants throughout the Washington metropolitan area. In fact, in the 1990s, the majority of immigrants to the area chose to live in the suburbs with only 13% moving to the District.⁶ A significant portion of the area's Latino population now lives in the Maryland and Virginia suburbs. Unfortunately, the Panel and the other components involved in the current project to analyze civil rights issues affecting Latinos were generally not able to study the situation of Latino immigrants living outside of the District. However, looking forward, Latinos in the District of Columbia will need to develop ties with their counterparts in Maryland and Virginia and design a regional strategy for improving civil rights conditions without forgetting the unique issues that affect those members of the community living in the urban center.

Findings of the Review Panel on Civil Rights Issues Affecting Latinos

The Review Panel adopts the findings of the law firms in their various reports on the civil rights issues affecting the Latino community in Washington D.C. The Review Panel wishes to highlight the following conclusions and recommendations, which we believe to be of particular importance.

⁶ Id.

Police Abuses and Interaction with the Community

Reports of police misconduct by the Washington, DC Metropolitan Police Department (“MPD”) from members of the Latino community continue to be legion ten years after the Mount Pleasant protests were first triggered by a police shooting. Community advocates, Latino business owners and Latino residents complain of inequitable treatment by District police officers and have provided accounts of physical assaults, harassment and intimidation, arrests without adequate explanation or Miranda warnings in English or Spanish and illegal searches of their homes.

The shooting of Tomas Flamenco and Fredys Lopez on Sherman Avenue provides a particularly poignant example of the types of police abuses suffered by the Latino community. The off-duty officer shooting these two men failed to call for reinforcement, appeared to seek an altercation with the men and did not clearly identify himself as a member of the police force in a timely manner. The shooting of these two men could almost certainly have been avoided had a clear MPD policy regarding procedures for off-duty officers existed to guide this officer’s actions and had he been properly trained in cultural sensitivity and techniques for the de-escalation of physical encounters. This case is particularly tragic, because it involved the death of Mr. Flamenco, but accounts of police use of excessive force and other abuses not leading to death are abundant.

For example, one Latina homeowner has recounted how several police officers broke down the door and entered her home in the early morning hours of June 7, 2001, without apparent cause or warrant. The men, who did not initially identify themselves as police officers, searched the home and threatened its owner and her pregnant daughter. The police then detained the woman who owned the home and held her overnight at the police station. When she finally appeared before a judge, she was immediately released and no charges were brought against her. In another incident, three Latino residents eating in a restaurant became involved in an encounter with the police. When one of the three men left the table to use the restroom, he was harassed in the bathroom by an officer who was not in uniform. The officer pushed the resident and then pistol-whipped him. When the victim’s two friends inquired what had happened, the officer hit them as well and took all three to the police station.

Non-physical harassment is also prevalent. Small business owners and street vendors in the Mount Pleasant neighborhood report frequent harassment by members of the MPD. Some Latinos have reported that they are stopped by police officers and questioned about their immigration status, despite a twenty-five year-old MPD policy generally prohibiting such inquiries. Complaints by Latinos are frequent regarding police use of insulting or demeaning language during the course of interactions between members of the Latino community and the MPD.

The negative relationship between the police and the Latino community resulting from these incidents is reflected in assessments of police performance by residents in areas heavily populated by Latinos. In a customer satisfaction survey, officers in the Third District, which has the largest concentration of the District’s Latino population, received the lowest composite score in any police district for officer demeanor. Third District residents were second most likely to report that police misconduct was “an issue,” coming in behind only District Seven in Anacostia.

There also exists a general sentiment that Latinos are disproportionately subject to arrests while, at the same time, crimes reported by Latinos receive less investigative attention. Despite

repeated recommendations that it make this information readily available, the MPD still does not provide statistics in its annual reports regarding unsolved crimes and arrests disaggregated by ethnicity. Statistics obtained as part of this project do appear to reveal an alarming trend of increasing arrests of Latinos. While the total number of MPD arrests decreased from 1999 to 2000, the numbers of arrests of Latino increased by 25%. This trend appears to have continued into 2001. In addition, the heavily Latino Third District was one of the police districts with the greatest numbers of arrests from 1999 through 2001.

At the time of the original Mount Pleasant disturbances and resulting reports, advocates noted the crucial importance of setting up a more effective system of investigating citizen complaints of police abuse. However, the DC City Council did not approve legislation establishing a new streamlined Office of Civilian Complaint Review (“OCCR”) until 1998. Funding was not provided to make that office fully functional until January 2001. The establishment of the new OCCR is seen as a positive development, despite continuing limitations on its jurisdiction and its ability to sanction officers. However, it is difficult to evaluate the effectiveness of this body, because it has been in operation for such a short time. During the nine months that OCCR operated in fiscal year 2000, Latinos filed 14 complaints, constituting 5% of all complaints received. The relatively low number of complaints from Latinos may reflect a lack of outreach to the Latino community regarding the body’s role and functions.

The MPD’s recruitment and retention efforts and discipline and promotion practices also illustrate its indifference toward fully integrating Latino officers into this workforce. Several investigations conducted by the Department of Justice and the Equal Employment Opportunity Commission since the Mount Pleasant disturbances confirm that the MPD has engaged in improper and discriminatory treatment of Latino job candidates and employees.

Just less than 5% of the MPD’s workforce is Latino. Although this level constitutes an improvement over the percentage of Latinos in the workforce at the time of the Mount Pleasant disturbances, the increases in Latino personnel have not kept pace with the growth of the Latino population in the District of Columbia. Current estimates place the Latino population in the District at no lower than 8%. In addition, although additional Latino officers have been detailed to the heavily Latino Third and Fourth Districts since the Mount Pleasant disturbances, their numbers as a proportion of the overall number of officers assigned to those Districts has not changed.

Latinos have rarely been promoted into the upper ranks of the MPD. Since 1998, no senior management position, including the Chief of Police, Executive Assistant Chief, Regional Assistant Chief or Assistant Chief has been held by a Latino. There is currently only one Latino Commander in the MPD, and there have been no Latino promotions to this position since 1998. There is no Latino representation at the Inspector level. There are two Latino Captains but again there have been no promotions to this position since 1998. Since 1998, the number of Latino Lieutenants has decreased by one to five Latinos, and no Latinos have been promoted to this position since 1998.

The MPD has also not made much progress in augmenting the force’s Spanish language capacity, through recruiting or training, as was recommended after the Mount Pleasant disturbances. A Spanish language certification program has been implemented, which provides certified employees with a bonus. However, that bonus is minimal – only \$50.00 per pay period – and only 2% of MPD employees have received the certification.

There continues to be insufficient Spanish language capacity in critical areas of the Communications Division at MPD, including emergency 911 operators, non-emergency 311 operators and dispatchers. Only one certified Spanish-speaking employee is employed as a 911/311 operator. Seven additional certified Spanish-speaking employees, who work as dispatchers, are assigned to assist with 911/311 calls, helping to meet the Spanish language demand. However, it is clear that the personnel on staff cannot currently meet caller demand for language assistance. During a recent three-month period, for example, a commercial language assistance line was used 117 times to assist Spanish-speaking callers. The use of such a line is obviously not ideal in a situation requiring communications between citizens and their police department.

The MPD has also failed to take adequate steps to ensure that the department is accessible to the Latino community and that its officers have received adequate diversity and cultural sensitivity training. Since the 1991 Mount Pleasant disturbances, the MPD has closed both a Mount Pleasant police substation and a general Hispanic Liaison Unit. New recruits are theoretically now required to participate in a 20-hour diversity awareness and sensitivity training course. However, it appears that some groups of students do not receive the training. In addition, there is no subsequent follow up to this course or any in-service diversity/sensitivity training at all. The only in-service training on diversity that is provided is an eight-hour workplace diversity course. It is not clear whether upper management is required to participate in this training. Each MPD employee must only take the mandated workplace diversity training course one time.

Recommendations

1. The Chief of Police should appoint a Latino liaison. The public should be provided with information regarding the Latino liaison, and the liaison should meet regularly with members of the community.

2. The MPD should work with community groups and the Chief's Citizen Advisory Council to develop a structure that will allow for the improvement of relations between the Latino community and the MPD. This structure should provide a means for holding regular meetings to review recent incidents, monitoring MPD's accessibility to the Latino community, recommending policy changes and discussing other issues important to the Latino community.

3. The Chief of Police should immediately take all actions necessary to ensure that police abuses against the Latino community, including incidents of excessive use of force, harassment and illegal searches and seizures, are immediately halted and that any officers participating in such incidents are adequately sanctioned. Such actions should include:

- Prompt and complete Force Investigation Team investigations of deadly force incidents;
- Prompt and complete Office of Professional Responsibility investigations into all incidents which may involve criminal misconduct by police officers.
- Imposition of strong disciplinary measures for officers who use racist and demeaning language;
- Periodic reviews of the records of officers who have processed a high number of "disorderly conduct" or "assault on a police officer" arrests.

4. The Chief of Police should develop clear guidelines regarding the duties and responsibilities of off-duty officers, including guidance on the types of law enforcement activities off-duty officers may conduct, on how off-duty officers shall identify themselves as law enforcement authorities, and on the types of radio or other communications that off-duty officers should sustain with their police districts.

5. The Chief of Police should immediately take all actions necessary to ensure that racial profiling does not lead to unfair arrests of Latinos. Such actions should include:

- Recording of the race/ethnicity of arrestees and the nature of the crime with which they are charged.
- Tracking and publication of statistics regarding location of arrests.

6. The District of Columbia government should ensure that OCCR receives appropriate funding to allow it to carry out its important mandate.

7. The City Council should provide OCCR with the authority to discipline MPD officers where OCCR finds that misconduct has occurred.

8. OCCR should conduct additional outreach to the Latino community.

9. The MPD should immediately take aggressive action to recruit, hire and retain additional Latino police officers.

10. The MPD should take immediate aggressive action to promote qualifying Latino officers to the positions of Senior Management, Commander, Inspector, Captain, and Lieutenant.

11. The MPD should monitor disciplinary action taken for each officer and maintain statistics regarding the race/ethnicity of officer sanctioned, the race/ethnicity of the sanctioning officer, action taken, and the nature of the alleged misconduct.

12. The MPD should conduct an audit to determine whether persons with limited English proficiency have meaningful access to MPD programs and activities.

13. The MPD should increase the foreign language stipend for officers receiving foreign language certification in Spanish.

14. The MPD should immediately engage in aggressive efforts to recruit additional Spanish speakers and to train existing personnel in the Spanish language in order to increase the total number of certified Spanish speaking officers and members of civilian personnel working for the MPD.

15. The MPD should, as an urgent priority matter, increase the number of certified Spanish-speaking 911/311 operators.

16. The MPD should increase the number of hours devoted to diversity/cultural sensitivity training for new recruits.

17. The MPD should enhance in-service training requirements to include meaningful components on diversity/cultural sensitivity in interactions with the public. The MPD should require all officers to take repeat training on diversity/cultural sensitivity on a periodic basis, such as every five years.

Barriers to Homeownership

In the D.C. metropolitan area, only 44% of Latino households own their own homes, and their homeownership rate is only two-thirds of the overall rate for the area. The low homeownership rates for Latinos are particularly striking in the District of Columbia. In D.C., less than one-quarter of Latino households own their own homes. This level of homeownership by Latinos is much lower than the national rate for Latino homeownership. Nationally, 46.3% of Latinos own their homes. This rate of homeownership is also much lower than that of any other group in the District. The rate of homeownership for non-Latino White households in D.C. is 47.2%, and the rate for African Americans is 38.8%.

Lower income and wealth levels for Latinos are major factors in low Latino homeownership rates. According to statistics for 1998, Latino median income in the DC area, at \$41,348, falls far short of the overall area median income for the DC metropolitan area of \$59,424. This difference in buying power, combined with the scarcity of affordable housing options in the Washington, D.C. area, pushes homeownership out of reach for many Latinos. The cash potentially available for homeownership by Latinos is sometimes further limited by their need or desire to use income for other purposes, especially to send home as remittances.

The relatively young age of the Latino population in the DC area is another demographic factor negatively impacting on homeownership rates, as homeownership is generally lower among younger populations. In addition, despite the fact that most Latinos in the Washington, DC area are legally here, many have not yet achieved citizenship, and this newer status of many Latino immigrants has a negative impact on homeownership rates. Whereas naturalized citizens have high rates of homeownership, noncitizen Latino households have a homeownership rate of only 30.2% nationally. A variety of reasons may explain why this factor constitutes a barrier to homeownership. The unfamiliarity of newcomers with American financial systems may be part of the explanation. However, other less benign explanations are also likely. For example, certain banks may still be refusing to provide financing to noncitizens, even those who are legally here for the long term.

In addition to these demographic and economic factors leading to low homeownership rates, many Latinos also face limits on their ability to access the housing and mortgage markets, creating further impediments to their ability to purchase homes. Mortgage approval rates for Latinos lag behind those for Whites. However, this barrier does not seem to be the most significant factor in low homeownership in the Washington, D.C. area, as mortgage approval rates for Latinos are actually higher in the metropolitan area (74.5%) than nationally (58.6%). The central problems appear to be outright discrimination against Latino immigrants, the failure of banks and lenders to recognize the unique needs and financial practices of this community and Latino immigrants' unfamiliarity with the home-buying process.

A lack of available home purchasing education appears to be a real problem for Latino immigrants. Numerous experts have pointed to the unfamiliarity of Latino immigrants with the home-buying process as a major barrier to homeownership that could be addressed through effective homeownership education. In addition, many lenders have been unwilling to adopt policies and take the time necessary to process mortgage applications from Latino immigrants who may have difficulties with the documentation and other requirements of traditional home buying processes. For example, many lenders have not yet developed policies for handling the lack of

income documentation presented by Latino construction and service workers often paid in cash and tips or the absence of traditional credit history for many Latino immigrants who have been unwilling to incur credit card debt.

Another significant and troubling limitation on the ability of Latinos to obtain financing, buy homes and obtain homeowners' insurance in the Washington DC area is the continuing fact of discrimination. A number of reports document the reality that Latino homebuyers confront discrimination in approximately half of their encounters with sales agents and other owners of the home buying process. Similarly, Latinos seeking mortgage loans are affected by discrimination in 48% of their encounters with lenders.

There also appear to be discriminatory barriers faced by Latinos in accessing the best types of loans. The statistics regarding mortgages suggest that lenders may steer Latinos toward more expensive government loans, such as FHA, VA and FmHA products. The government mortgage approval rates for Latinos are very high in the Washington, DC area at 88.6%. This rate exceeds the local and national approval rates for non-Latino Whites and Blacks for government and conventional loans. Approximately half of the home purchase loans made to Latinos in the Washington metropolitan area between 1997 and 1999 were government loans rather than conventional loans.

Predatory lending is an additional related problem. Subprime loans, those most likely to be predatory lending loans, represent 12% of the conventional home purchase loans to Latinos, but just 4.8% of the loans to non-Latino Whites. Fortunately, predatory lending has not yet become as significant a problem for Latinos as it has for African-Americans, but this is an issue which may cause real problems for Latino homeownership in the future.

Finally, many federal and local government offices and programs intended to help low-income families to purchase homes have not taken adequate steps to encourage and facilitate Latino homeownership. The most serious failing of many of these programs is their refusal to provide access to their services in languages other than English.

Recommendations

1. Enforcement actions, including litigation, should be taken against lenders and real estate agents who are engaging in discrimination against Latinos. In addition to focusing on lenders and agents who refuse to conduct business with Latinos or discourage business from Latinos, these actions should also seek to combat steering of Latinos into government loans by lenders. The Department of Housing and Urban Development should also investigate and provide information to the public regarding the reasons behind the high approval rate for FHA mortgages to Latinos in the Washington, D.C. area.

2. Mortgage lenders should ensure access to their services for Latinos by taking steps such as training their staff to be more sensitive and receptive to Latino borrowers, hiring more Latino staff, developing policies for accepting alternative documentation of credit history and income and instituting programs designed to allow Latino immigrants to build up credit histories.

3. Metropolitan-area-wide housing programs should be developed. A metro-wide homeownership advocacy group should be created and should explore possibilities for the development of innovative projects such as “sweat equity” programs.

4. All area governmental entities administering homebuyer assistance programs and services should offer adequate interpretation and translation services to Latino prospective clients to ensure their ability to participate in those programs and services. These governmental entities should also conduct additional outreach to the Latino community. To the extent that local government programs are found not to be truly accessible to Latinos in this area, appropriate federal governmental agencies and organizations active in fair housing and fair lending issues should take appropriate legal action against them.

5. The D.C. Housing Finance Agency (“DCHFA”) should improve its services to the Latino community by providing homebuyer education seminars outside ordinary business hours, as other jurisdictions do, so that potential homebuyers with full-time jobs will be able to attend; make information about its programs available in English and Spanish over the internet; maintain records about use of its products by Latino residents; and provide a competently-staffed telephone information system, accessible in Spanish, to assist potential homebuyers in obtaining information about DCHFA programs.

6. Fairfax County, as the home of the largest number of Latino residents in the area, should follow the example of Montgomery County and hire a liaison to the Hispanic community to coordinate outreach on housing and community development matters and to ensure access by Latino residents to the county’s homeownership services.

7. Governmental agencies in the region, as well as other housing industry participants, should improve and expand their homebuyer education programs and provide targeted education programs for Latinos. To be most effective, these programs should rely on person-to-person contact. Community organizations, focusing on the Latino community, should also be provided adequate funding to allow them to provided expanded homebuyer education.

8. In the absence of effective national standards, the local jurisdictions in the Washington, D.C. area should enact legislation to prevent predatory lending. Such legislation should be consistent across the region, to the greatest extent possible, and should be carefully crafted to avoid undermining the availability of mortgages loans in the region.

9. Consideration should be given to the idea of creating a local Latino credit union to provide banking and lending services, including financial education, money transfers (remittances) and home loans, to the Latino community. Local governmental entities, as well as corporations and foundations, should provide the support, including financial, to ensure the success of such an effort.

Rental Housing Barriers

Ten years after the original Mount Pleasant report noted that the problem of a dwindling affordable housing stock in livable condition was particularly acute for Latinos in Washington, DC, the prognosis remains bleak. The District has failed to provide low-income residents with an increased stock of affordable housing. In fact, the total supply of housing units in the District has decreased by over 4% during the last decade. As to rental units specifically, between 1994 and 1999, the rental vacancy rate fell from over 10% to less than 1%.

Latino immigrants are particularly vulnerable to these vagaries of the housing market. Insufficient supply and the resulting pricing pressures, as well as gentrification, have most seriously affected housing units inside the beltway where Latino immigrants are still most likely to live. In addition, the vast majority of Latinos, unlike other recent immigrant groups with significant low-income populations, live in private rather than public housing. Consequently, they do not benefit from the protections on pricing designed to mitigate the vicissitudes of the rental housing market.

Latino immigrants have also been particularly harshly affected by the fast-paced gentrification taking place in the District. The current trends indicate that the neighborhoods currently undergoing the most rapid gentrification in Washington, DC are all located in Ward 1, which includes Adams Morgan, Cardozo/Shaw, Mount Pleasant and Columbia Heights. Of all Latinos living in the District, almost one-half (46.3%) reside in Ward 1.

Few would argue that the DC government should not encourage economic revitalization in depressed areas of the city. However, if careful planning is not undertaken to ensure that traditional residents of revitalized areas are able to enjoy the new possibilities, the gentrification that follows in the wake of economic revitalization can have disastrous consequences for low-income minority and immigrant communities. Although the overall effects of gentrification can be mixed and even positive, those effects are almost entirely negative as it comes to affordable rental housing. The District should be actively engaged in developing new programs and policies to protect those least able to absorb the increased costs associated with gentrification. To date, however, the District has neglected the plight of low-income persons in gentrifying neighborhoods and, in some cases, has even been an active participant in their displacement.

Another serious problem facing Latino renters in the District of Columbia is the District's method of enforcing its housing code. These enforcement problems were pointed out in the original Mount Pleasant report and continue today. In effect, the statutes and regulations provide for multiple enforcement options to combat substandard housing. However, the District's enforcement policy has continued to focus on condemnation of the most uninhabitable properties and eviction of the tenants living in those properties. As a result, substandard housing continues to be a problem, and the enforcement that is conducted leads to displacement rather than improvements in living conditions. The District's move in 2000 to close a number of buildings, occupied by mostly Latino and Vietnamese tenants, around the new Columbia Heights metro shop shows the negative impact on the immigrant community of the District's code enforcement policies, whether such impact is intentional or a result of misguided policies.

In addition to the difficulties caused by economic forces and gentrification, Latino and other immigrants seeking rental housing also face direct discrimination. Studies conducted during the 1990s showed that Blacks and Latinos face discrimination more than 42% of the time when

they attempt to rent apartments in the Washington, D.C. metropolitan area. Those same studies concluded that, in Washington, D.C., Latinos are more likely to be discriminated against than their White or Black neighbors. It is also more difficult for Latino renters to obtain rental insurance because of discrimination. Reports show that Latinos and African American seeking insurance in the Washington, D.C. metropolitan area encounter discrimination 45% of the time in their interactions with insurance providers.

Latinos and other immigrants also face significant barriers in their efforts to access public, subsidized and assisted housing in the District of Columbia. All persons seeking public and assisted housing face shortages and long waits. However, Latinos appear to be excluded from these low-income housing possibilities at an unusually high rate. The percentage of Latinos on the DC Housing Authority waiting list for public housing actually declined from 1991 to 1998 (from 1.7% to 0.9%) despite the fact that the need for low-income housing for Latinos has increased during the 1990s. In 2001, although Latinos made up at least 8% of DC's population, they held only 1.3% of Section 8 vouchers and 1.2% of Section 8 project-based units. In heavily Latino-occupied Ward 1 of the District, Latinos occupied only 2.2% of the public housing units and held 17% of the Section 8 vouchers allotted in this area of the city.

One of the key problems facing immigrants in their attempts to receive governmental housing assistance is the lack of language support for households with limited English proficiency. The DC Housing Authority still has very few Spanish-speaking staffers. Many critical forms and brochures are still only available in English. Non-English speakers who attempt to apply for public housing benefits in the District, unaccompanied by their own interpreters, have little chance of successfully navigating the agency's procedures.

Another barrier to subsidized and public housing in the District of Columbia faced by Latino immigrants relates to federal requirements regarding immigration status. Federal law provides that only certain categories of immigrants, such as permanent residents and political asylees, may obtain public and assisted housing. Unfortunately, this federal restriction often blocks even permanent residents from receiving the housing aid that they need. The federal requirement forces local housing authorities to verify the immigration status of immigrants seeking government assistance. If the INS automatic database does not automatically confirm the immigrants' status, either because the database is incorrect or because local authorities do not use it correctly, a time-consuming manual verification process is initiated. The DC Housing Authority appears to have a particularly difficult time confirming immigration status through the automated system, suggesting that the agency is not using the system properly. In addition, the DC Housing Authority has not agreed to provide benefits to applicants while awaiting the immigration status check as is allowed, if not required, under the federal law.

Recommendations

1. In order to best serve tenants in private housing and ensure the existence of quality housing options, the District government must keep detailed records of all housing code violations, abatements, and evictions.
2. The District government must use criminal prosecution more aggressively to target landlords who repeatedly fail to respond to orders to correct conditions at substandard properties.

3. The District government must diversify its enforcement policy to include other available means of enforcement. This should include the imposition of monetary sanctions against owners of buildings in violation of housing codes pursuant to 14 DCMR § 102 (providing for fines) and D.C. Code § 45-2518(a)(2) (providing for rent reduction) and the use of authority under D.C. Code § 6-907 to make any necessary repairs and to assess the cost of the repairs as a tax against the building.

4. The District government should revise the Department of Consumer and Regulatory Affairs “DCRA”) regulations and policies governing the condemnation of substandard housing to restrict the eviction of tenants when adequate alternative housing is unavailable. The District should also increase funding to programs to assist displaced tenants.

5. The District government should consider initiating a program to educate landlords and home sellers regarding their obligations and duties to their tenants under the law and the types of behaviors that violate federal, state and local housing and discrimination laws.

6. In order to encourage more members of the immigrant communities to come forward with allegations and complaints, the District government and the United States Department of Housing and Urban Development (“HUD”) in coordination with the Immigration and Naturalization Service (“INS”) should provide a policy and system of ensuring that undocumented immigrants are aware that an agency receiving complaints of housing discrimination will not report their status to the INS.

7. The District government, the Office of Fair Housing and Equal Opportunity (“FHEO”) located within HUD, and other federal and local agencies charged with investigating housing discrimination complaints, should take steps to prosecute landlords and property owners that engage in retaliatory actions against tenants that file discrimination complaints, such as threatening to report complainants to the INS.

8. Local governments and agencies should collect better racial data for applicants and recipients of government housing benefits.

9. Jurisdictions, including the District of Columbia, with a significant Latino population should take affirmative steps to immediately hire more Spanish-speaking intake officers in their respective public housing departments.

10. The District and other local governments should study the local community to determine how best to provide meaningful access to government housing benefits for immigrant populations, including: 1) outreach programs, 2) translated forms, 3) interpreter services, and 4) basic cultural awareness training for intake officers.

11. The District should incorporate a more flexible approach to immigrant status verification, including providing benefits prior to verification as permitted by HUD regulation.

12. The District should initiate outreach programs to explain the new benefits of the Housing Act of 2002 to non-English speakers.

13. The District should initiate a second phase of legislation to address vacant housing and zoning issues and should increase both the percentage and the real dollar figures allocated through the Housing Production Trust Fund to extremely low-income residents and recent immigrants.

Employment Discrimination

Over the past ten years, the Latino unemployment rate has fluctuated dramatically from year to year, but every year there has been a substantial gap between Latino and White unemployment rates in the District of Columbia. Latino unemployment rates have consistently been higher than White rates and have sometimes been more than twice as high. In 2000, Latino unemployment in the District averaged 3.6% as compared to a rate of 2.5% for Whites. In years of higher overall unemployment, the difference in the unemployment rates has been even greater. For example, in 1997, the Latino unemployment rate was 8.8%, while the White unemployment rate was 2.9%.

Several social and economic factors contribute to Latino unemployment and underemployment. While many factors play a part, hiring discrimination remains a significant barrier to job opportunities for Latinos.

In 1991, a study conducted after the Mount Pleasant disturbances found that Latino applicants encountered discrimination based on their national origin more than 22% of the time they applied for jobs. A similar, albeit more limited, study conducted in 2002 found that Latino applicants still encounter discrimination about a quarter of the time they inquire about jobs.

Much like the earlier study, the 2002 study paired White and Latino individuals together to make telephone inquiries regarding employment in order to test the reactions they would receive. Of the 122 pairs of calls (one by the Latino and one by the White tester) that were analyzed, 35 revealed substantial differences in treatment in favor of the White tester over the Latino tester (in only five did the Latino fare better).

Many of the differences in treatment were quite egregious. For example, in one test, the Latino had a two-minute conversation and was asked his country of origin. He was told to consider different jobs. The White tester was interviewed for ten minutes by the same person. He was given a salary amount and was asked to e-mail his resume right away. Ten minutes after the call ended, the interviewer called the White tester back and asked where his resume was.

The patterns of disparities resulting out of the tests are also dramatic. For example, on 76 occasions, the White testers were asked to provide documentation in order to allow the hiring process to continue. Latinos were only asked to provide those documents during 26 tests.

The results of the 2002 study, revealing continuing high levels of discrimination, are particularly troubling as we face the current economic downturn. For a variety of reasons, including lower education levels, more recent entry into employment positions, language barriers, etc., Latino unemployment rates are disproportionately negatively impacted by economic downturns. At the same time, discrimination also frequently becomes more severe during economic downturns. It may be harder for employers to discriminate when the labor market is tight, but when the economy slows down, there is generally a sufficient supply of White workers and Latino workers may be excluded. Hiring discrimination thus presents another layer of difficulty to be faced by Latinos in tough economic times.

In addition to facing discrimination in hiring and suffering from higher unemployment rates, Latinos are also stuck in lower-paying jobs when they are working. In private firms located

in the District of Columbia with 100 or more employees or federal contractors with 50 or more employees, Latinos occupied only 2.9% of official and managerial positions in the year 2000, despite the fact that Latinos held 6.5% of the total jobs with those employers. In contrast, Whites occupied 73.9% of official and managerial positions at those sites while occupying only 49.2% of the total jobs.

These difficulties faced by Latino workers in the private sector are not absent in the public sector. Ten years after the original Mount Pleasant report recommended that the District of Columbia government hire a number of Latinos reflecting the size of their population in the city, little progress appears to have been made in public sector employment for Latinos.

Most discouraging is the fact that the District has failed to implement an internal system for tracking how many of its 33,000 District government employees are Latino. As a result, no data on this issue is publicly available.

The unavailability of data makes it impossible to even assess the degree to which the District has made an effort to hire Latinos, but it certainly calls into question the city's commitment to a goal of incorporating more Latinos into the public workforce. In addition to presenting a problem for Latinos seeking to gain employment within their local government, the District's lack of commitment to hiring Latinos demonstrates a failure to appreciate the beneficial effects that increased representation would have on the delivery of services to the Latino community.

District agencies have failed even to comply with local affirmative action legislation requiring that they report to the City Council regarding the number of Latinos that they employ. Nor have the various agencies complied with the legislative requirement that they submit affirmative action plans to the City Council each year in order to improve employment levels for Latinos, among other groups. To date, the District has defined no goal of increasing the number of bilingual employees in public contact positions throughout District agencies nor has it established bilingualism as a selective placement factor for District government jobs.

In the area of employment/career services, the District has made some advances over the last ten years. The District, through the Department of Employment Services ("DOES") has developed a network of One-Stop Career Centers ("One-Stops") to service the training, counseling, and employment placement needs of District residents. Since 1998, the District has opened six One-Stops, two of which are full-service centers. District officials state that Latino staff and Spanish language materials are available at the two full-service One-Stops.

However, none of the One-Stops, either full-service or satellite, is located within the Northwest quadrant, home to the vast majority of the District's Latino population. In addition, some Latinos seeking to use the services of the One-Stops have reported difficulties in obtaining assistance in Spanish. Before the One-Stops were developed, DOES operated a Latino Employment Services Center in Mount Pleasant. That center has now been closed and has not been replaced with a One-Stop.

Recommendations

1. Those agencies, organizations and individuals responsible for and able to investigate and enforce the laws against employment discrimination should join in uncovering and pursuing claims involving Latinos.
2. With respect to all agencies -- those within the Mayor's control and those with independent administrative authority -- the District of Columbia government should immediately develop and implement an internal system through which each agency must track and report regularly the number of Latinos employed and in what positions or classifications, the percentage of the workforce they represent, the numbers and percentages with respect to positions having contact with the public, and the same information with respect to all new employees hired by each agency.
3. The District of Columbia government should report such information to the city's leadership (Mayor, Council, School Board, etc.) and publish or otherwise make publicly accessible all such information regarding the racial and ethnic demographics of the District government workforce.
4. The District of Columbia government should subject such reports to regular, high-level review and use the data to set goals, both city-wide and agency-specific, and track progress toward accomplishing these goals and make such accomplishments part of the evaluation of each agency head.
5. The District of Columbia government should establish bilingual capability as a positive employment preference with respect to hiring for all public contact positions, or at least with respect to sufficient positions for each function and in each location to ensure ready availability of all city services to those with limited English fluency.

Access to Health Services

Because the Latino population in Washington, D.C. consists of a large number of working poor whose jobs offer few or no health insurance benefits, publicly funded health insurance benefits are crucial to assuring access to health care. Currently, approximately 39% of the Latino non-elderly population in Washington, D.C. is uninsured.

Medicaid and the State Children's Health Insurance Program ("CHIP," known as D.C. Healthy Families in the District) are the two major publicly funded health insurance programs in Washington, D.C. Unfortunately, significant barriers exist to Latino participation in these two programs. As a result, Latinos constitute only about 2% of Medicaid enrollment in the District of Columbia.

Both Medicaid and the CHIP program are partially federally-funded. Many Latino immigrants are therefore not eligible to apply because of the restrictions set forth in federal legislation passed in 1996 and known as the Personal Responsibility and Work Opportunities Reconciliation Act ("PRWORA"). Pursuant to this legislation, only a limited set of immigrants, known as "qualified aliens," are still eligible for Medicaid and CHIP benefits. Qualified immigrants are primarily permanent residents, asylees and a few other limited categories. Many Latinos in the District have Temporary Protected Status, are applying for political asylum or have some other temporary status; others are undocumented. None of these immigrants are eligible for Medicaid or CHIP under PRWORA. In addition, even those Latino immigrants who may be considered qualified immigrants under PRWORA will not be eligible for Medicaid or CHIP during the first five years that they reside in this country, if they arrived after August 22, 1996.

Even those Latino immigrants who are eligible for Medicaid and CHIP under PRWORA face limitations on their ability to take advantage of those benefits, because they are fearful that applying for benefits will negatively impact their immigration status or that of family members who are not qualified immigrants. The District has engaged in little outreach to allay these fears.

Because PRWORA made health insurance inaccessible to many Latino immigrants across the country, other states and local governments have provided replacement health insurance programs, funded by local dollars, to fill in the gaps in coverage. The District has not followed this lead.

The District has established two programs – the Immigrant Children's Insurance Program and the DC-Washington Alliance for Community Health (the "Alliance") -- that provide some locally-funded coverage, but these programs are limited in scope and in their usefulness for immigrant families. For example, although the Immigrant Children's Insurance Program provides benefits to children in any immigration status, including undocumented status, it is funded to cover only 800 children. Of the eight health services providers that serve as the principal points of contact for the Alliance, only one is located in the northwest quadrant of Washington, D.C. where the majority of Latinos live.

Latino immigrants also face another significant barrier to their ability to obtain publicly funded health insurance – the lack of Spanish language capability at the District of Columbia government agencies charged with determining eligibility and administering the benefits programs. The Income Maintenance Administration ("IMA") of the District of Columbia government has

made some efforts to recruit additional Spanish speaking employees. The proportion of bilingual employees at the IMA has increased from 9% to 14% from 1995 to 2000. In addition, a Multicultural Affairs Coordinator has also been hired at the IMA. However, Latino applicants for benefits continue to complain that they are unable to receive services if they do not take their own interpreters with them when they apply for benefits. Some applications are available only in English, and most written information available to the public regarding benefits is prepared only in English.

For those Latino immigrants who obtain benefits and are thus able to seek medical care, additional problems arise. They often are unable to communicate adequately with health providers, and many providers lack cultural sensitivity toward the special needs of these Latino clients. As a result, the vast majority of Latinos seek out community-based providers oriented toward the specific needs of Latinos to provide their care. They seek services at clinics such as La Clinica del Pueblo, Mary's Center for Maternal and Child Health, the Spanish Catholic Center and Columbia Road Health Services. However, these clinics and providers that are language accessible and culturally sensitive are too few and far between and are inadequately funded. They are unable to provide assistance to all of the individuals who require their services.

Recommendations

1. The District of Columbia government should develop further locally-funded health insurance programs covering immigrants that are excluded from Medicare and CHIP as a result of PRWORA.

2. The District of Columbia government should expand the Immigrant Children's Insurance Program from 800 spaces to at least 2,000 spaces.

3. The District of Columbia government should expand the D.C. HealthCare Alliance (the "Alliance") to cover more than 25,000 persons and should allow reimbursement to providers under the plan for patients that they already serve.

4. The District of Columbia government should conduct greater outreach in the Latino community to increase awareness of the Alliance and should increase the number of enrollment sites and eligible pharmacies to include locations in Latino communities, including for example at La Clínica del Pueblo and Mary's Center for Maternal and Child Care.

5. The District of Columbia government should conduct additional outreach to the Latino community concerning CHIP as well as regarding "deeming," "public charge" and sponsor liability rules.

6. The District of Columbia government should undertake increased efforts to ensure that Latinos understand that qualified family members can receive benefits without consequences to undocumented family members.

7. The IMA should increase its capacity for language assistance, including through hiring additional translators and interpreters, providing Spanish language signs and written materials, including applications, vital forms and documents. The Multicultural Affairs coordinator should provide additional outreach to the Latino community.

8. The District of Columbia government should place a renewed focus on language assistance concerning health care benefits, insurance and providers, to make this information easily accessible to the Latino community. To this end, relevant written materials should be present at and/or disseminated to locations where Latinos will be able to receive them.

9. The District of Columbia's Department of Health Service web site should be updated to include information in Spanish. As a first step, the web site should include a statement, in Spanish, indicating a telephone number that Spanish-speakers should call for information. The web site should also contain forms and information in Spanish.

10. The Medical Assistance Administration should take additional immediate steps to meet its objective to increase enrollment of Medicaid-eligible children in the Latino community by stationing enrollment employees in Latino-dominated areas to assist in enrollment, by providing applications in Spanish on the web site and by making Spanish language applications available in other places of easy access to the Latino community.

11. The appropriate District of Columbia and federal agencies, including the D.C. Office of Human Rights and the Office of Civil Rights of the United States Department of Health and Human Services, should engage in enforcement of the Title VI regulations applicable to health-care providers, including governmental agencies, private physicians and hospitals that receive federal funds.

12. Additional local and federal funding should be made available to community-based providers that serve the needs for the Latino community so that those service providers will be able to provide spaces for new patients.

13. The District of Columbia government should take proactive actions to seek an increase in the number of private physicians available for the Latino community, as well as familiarize these physicians with the unique social and cultural barriers that may affect Latinos when they are seeking health care services.

14. The District of Columbia government should take measures to improve on services available for the specialized health care needs of the Latino community, including mental health care and substance abuse treatment. The Alliance should be expanded to cover mental health care and substance abuse treatment.

Immigration

After the Mount Pleasant disturbances, experts analyzing the situation concluded that the frustration and marginalization experienced by the Latino community was directly linked to the largely Salvadoran community's lack of stable immigration status. At that time, Temporary Protected Status ("TPS") for Salvadorans had only recently been adopted, and it was unclear how long it would last. It was clear by that time that the "amnesty" provided for by the Immigration Reform and Control Act of 1986 did not provide relief to most Latino immigrants in the Washington, D.C. community, since the community was largely made up of more recent immigrants from El Salvador who had not arrived in time to benefit from the amnesty. And, litigation in the *ABC* class action case had revealed the degree to which the political asylum process had unfairly treated applicants from El Salvador throughout the 1980s and early 1990s.

Ten years later, many Salvadoran immigrants in the Washington, D.C. area still do not have a fair, rapid and straightforward way to stabilize their immigration status. Although designations of TPS and subsequently Deferred Enforced Departure ("DED") allowed Salvadoran immigrants to remain in the United States and to work throughout a significant portion of the 1990s, these designations kept Salvadorans in a constant state of limbo and did nothing to place them on the road to permanent residence.

Then, just as many Salvadorans began to become eligible to stabilize their status through "suspension of deportation" provisions of the law that allowed long-term residents with significant ties to the United States to become permanent residents, new legislation was passed that severely limited that possibility. The Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), adopted by Congress in 1996, retroactively imposed new requirements on persons wishing to adjust their status in this way. For example, rather than requiring continuous residence in the United States for seven years, the new law required continuous presence for ten years and also did not allow accrual of additional time once deportation proceedings were initiated.

In 1997, Congress finally began to address some of the issues affecting Washington, D.C.'s largely Salvadoran Latino immigrant population. However, the changes were inadequate and unfair and did not resolve all of the problems that had been created. On November 19, 1997, President Clinton signed into law the Nicaraguan Adjustment and Central American Relief Act ("NACARA"). Under NACARA, Salvadorans and Guatemalans, who had been in the United States since 1990 and who had registered for TPS or for the benefits of the *ABC* lawsuit or who met certain other requirements, became eligible to apply for cancellation of removal and adjustment of status to permanent residency. The standards that applied in their cases were also the more flexible ones that applied before IIRIRA.

However, the unfairness in the NACARA law was immediately apparent. While Salvadorans and Guatemalans were forced to complete a lengthy cancellation of removal process before adjusting their status, Cubans and Nicaraguans were allowed to automatically adjust their status to permanent residency under the law. Other inequities existed as well. For example, Salvadorans and Guatemalans were required to have entered the country a full five years earlier than Cubans and Nicaraguans in order to benefit from the law's provisions.

The political undertones of these differences in treatment under NACARA were obvious. Immigrants arriving from countries where the United States had been involved in supporting the

leadership were treated significantly less generously than those coming from countries whose leadership had been spurned by United States foreign policy.

The most grave consequence of this difference in treatment is the delay which qualified Salvadorans and Guatemalans have experienced in achieving permanent residency under NACARA. Because they must complete the cancellation of removal process before adjusting status to permanent residency, Salvadorans and Guatemalans must wait in line to have their applications processed and receive an interview. A huge backlog has developed, and it is likely that some Salvadoran and Guatemalan nationals will ultimately wait ten years or more after filing NACARA applications before finally receiving NACARA interviews that will, in most cases, eventually lead to adjustment of status.

The delays experienced by Salvadorans and Guatemalans in the processing of their NACARA applications have had a number of deleterious consequences. In the broadest sense, they prevent Salvadoran and Guatemalan nationals from participating in their local and national political communities in the United States. Because permanent residence is delayed for these individuals, citizenship is also delayed. Most immigrants can only apply for citizenship after they have completed five years of permanent residence. Until significant numbers of Salvadorans and Guatemalans can grab the golden ring of citizenship and voting rights, it will be very difficult for them to lobby effectively to improve their own circumstances or those of other Salvadorans and Guatemalans who are suffering perceived injustices.

The government's delay in processing NACARA applications also adversely affects the ability of Salvadoran and Guatemalan immigrant children to pursue an education. As non-permanent residents, these immigrant children are often unable to obtain financial aid or in-state tuition. The delay also means that Salvadoran and Guatemalan immigrants continue to be separated from family members who remained in their home countries. NACARA applicants cannot travel outside the United States without jeopardizing their applications unless they first obtain advance parole. However, the INS has been extremely stingy in granting advance parole to Salvadoran and Guatemalan NACARA applicants. A sick relative or dying parent in El Salvador or Guatemala can thus force a Latino immigrant in the United States to choose between family obligations and permanent admission to the United States.

Even those Salvadoran and Guatemalan applicants who reach the top of the long list of NACARA applicants and obtain a NACARA interview are not free from difficulties in obtaining cancellation of removal and adjustment of status to permanent residency. The INS has unfairly branded as "smugglers" some NACARA applicants who have provided financial resources to bring family members into the country. As a result, NACARA relief may be denied on the grounds that the applicants have not established "good moral character" as required under the statute. Other applicants may be denied on the grounds that they engaged in persecution in their home countries. Yet, the persecution determination is made on minimal information that the applicant's attorney does not have the opportunity to rebut.

The disparate treatment of Nicaraguans and Cubans, in contrast to Salvadorans and Guatemalans, as well as the blatant exclusion of Hondurans, has long invoked fierce criticism of NACARA. Over the years, sentiment in Congress has grown that Hondurans, Guatemalans and Salvadorans suffered from conditions equal to those experienced by Nicaraguans and Cubans and are therefore entitled to similar immigration benefits. Annually, since NACARA was approved,

legislation has introduced that would provide for parity under NACARA. Unfortunately, none of these measures has yet been successful. In March of this year, bipartisan legislation known as the Central American Security Act was introduced in Congress to achieve NACARA parity. It appears that a chance for passage finally exists for this proposed legislation.

Although NACARA occupies the greatest space in the concerns of the largely Salvadoran Washington, D.C. immigrant community regarding the immigration law regime, TPS still holds its place on the stage as well. Many Salvadoran nationals who have more recently arrived in the United States are currently receiving benefits under a new designation of TPS. This most recent TPS designation was issued on March 1, 2001 as a result of massive earthquakes taking place in El Salvador at the beginning of 2001. This TPS protection applies to nationals of El Salvador who have been in the United States since February 2001. It is set to expire on September 9, 2002 unless efforts to have it extended are successful.

Strong equitable arguments exist to suggest that Salvadorans covered under the current TPS should be allowed to stay and work legally in the United States at least for an additional reasonable period of time. Many of the immigrants currently benefiting from TPS might not have required that protection had the history of the treatment of Salvadorans under immigration law not been so unfair, because they would have been able to immigrate legally. If Salvadorans had encountered a fair asylum process when they first began to immigrate to the United States in large numbers or if NACARA had provided a more rapid route to permanent residency, many of the earlier Salvadoran immigrants would now be permanent residents or citizens. Many of the more recent immigrants would have been brought in to the United States legally by these earlier immigrants through relative petitions. And, in any case, there can be no doubt that the earthquakes in El Salvador truly led to a disastrous situation from which the country will not recuperate quickly. For humanitarian reasons, Salvadorans should be allowed to stay in the United States until that process is completed.

The history of immigration law and policy and its effect on Salvadoran immigrants to the United States makes clear that a great number of Salvadorans, who have lived and worked in the United States for a significant length of time and who can make strong equitable arguments for staying in the United States, have fallen through the cracks and have not yet been able to achieve stable immigration status. One solution that could resolve this situation would be the promulgation of a general regularization program, which would allow all Salvadoran immigrants to follow a straightforward process to obtain permanent residence.

Before September 11, adoption of such a regularization program seemed possible. There appeared to be bipartisan support for some earned “legalization” program. On September 11, 2001, and the days following, many peoples’ hopes for that future were altered. However, in the weeks before this Report was finalized, the issue of regularization and other innovative proposals for addressing the immigration status needs of worthy immigrant communities, including Salvadorans, began to resurface. Immigration advocates will need to act quickly and decisively to take advantage of new momentum in favor of regularization in order to provide a lasting solution for the Salvadoran community in Washington, D.C. and for similarly situated communities here and around the country.

Beyond the inequities in the substantive provisions of federal immigration law and their implementation, most local immigrants have serious complaints about the immigration process as it is felt at the local level here in the Washington, D.C. area. The delays in processing NACARA

cases at the Arlington Asylum Office continue to frustrate applicants. At this time, the office is still processing applications filed in 1999, reflecting more than a three-year backlog.

Applicants for NACARA and all other immigrants in the Washington, DC area also must often interact with the Washington, D.C. and Baltimore District Offices of INS located in Arlington, Virginia and Baltimore, Maryland respectively. Unfortunately, newcomers using these offices often report negative experiences. Community groups representing immigrants have received particularly problematic complaints regarding the Washington, D.C. District Office in Arlington, Virginia. INS agents at that office are too frequently discourteous. In addition, long lines and long waits at the Washington, D.C. Office are the norm. The time that the Washington, D.C. and Baltimore Offices take to process important applications is also less than ideal. For example, applications for citizenship generally take more than one year at either of those offices.

A final pitfall that immigrants in the Washington, D.C. area face is the paucity of legal services. The guidance of an attorney with experience is often crucial to the success of an immigration application. Most newcomers, however, particularly Central American immigrants settling in the Washington, D.C. area, do not have the financial resources to pay a private immigration attorney. Most must search for a non-profit legal services or community organization willing to provide assistance. There simply are not enough organizations in the Washington, D.C. area to meet the legal representation needs of the large immigrant population in this area. As a result, immigrants must scramble to find an organization that will agree to provide representation and many come up short.

Recommendations

1. At a minimum and in the absence of a more substantive reform of NACARA:
 - Congress and the INS should ensure that additional resources are dedicated to the processing of NACARA applications by INS, and that these resources are guaranteed for an adequate period of time to allow the entire backlog of NACARA cases to be processed without further delay;
 - the INS should revisit and make more flexible its interpretations of the bar to NACARA relief applicable to persons considered to be persecutors and the bar to a finding of good moral character for those allegedly involved in smuggling; and
 - the INS should make more accessible the process by which NACARA applicants may obtain advance parole and should expand the conditions under which such parole is granted to all cases involving a serious need to travel.
2. To address the underlying programs posed by NACARA, Congress should amend NACARA so that it provides protections, equal in all regards to those provided to Cubans and Nicaraguans, for Salvadorans, Guatemalans and Hondurans. Adoption of the Central American Security Act introduced this legislative session would achieve this goal.
3. The current TPS designation for El Salvador should be extended for at least one more period of 18 months beyond the current September 2002 termination date.
4. The District of Columbia City Council should adopt a resolution recommending that the current TPS designation for El Salvador should be extended for at least one more period.

5. The District of Columbia City Council should adopt a resolution setting forth its sense that Congress should amend NACARA so that it provides protections, equal in all regards to those provided to Cubans and Nicaraguans, for Salvadorans, Guatemalans and Hondurans.

6. Proposals for a fair and general regularization program, not limited to any one country, should be seriously considered as a solution for the problem faced by many immigrants, including many Salvadorans, who have faced unfair immigration policies and procedures for years and who still have no clear and straightforward means of stabilizing their status in this country.

7. Regardless of the changes in substantive immigration law and general procedures, changes must be made immediately at the local INS offices in the Washington, D.C. area, including the Arlington Asylum office and the Washington, D.C. and Baltimore District Offices, to ensure that all applications are processed in a reasonable time frame and that all persons interacting with these offices are treated fairly and with respect.

8. Local and federal governmental and private funders should make it a priority to provide sufficient resources to local legal services providers to allow them to provide the representation so sorely needed by immigrants seeking to navigate the complex system set forth by the immigration laws.

Education

Latino enrollment in the District of Columbia Public Schools (“DCPS”) has nearly doubled since the late 1980s, but DCPS has been slow in responding to the needs of these students, many of whom are English language learners (“ELLs”). After more than a decade of strong criticism regarding its treatment of Latino students, in 1997, DCPS finally signed an Agreement for Corrective Action with the Office of Civil Rights of the Department of Education.

However, almost five years later, the school district is only recently finalizing the Compliance Plan it was required to develop and implement under that Agreement. The Compliance Plan would provide important information regarding the steps that DCPS plans to take to provide greater access to Latino students and would also serve as an important tool for evaluating the current status of DCPS’ efforts. However, because that plan has still not been finalized and made public, it remains difficult to evaluate the progress made by DCPS in improving Latino access to public education. What is clear is that many problems remain.

Difficulties persist in the mechanisms for identifying ELL students. Even the best bilingual program is not useful if the students who require its services are denied access. In addition, the program for assessing the progress of ELL students identified and placed in the bilingual program still has flaws.

The substance of the bilingual education program also continues to lack strength. A broad array of bilingual instructional programs and teaching methods are theoretically available at DCPS, representing great progress when compared with the scarce services available just 10 or 15 years ago. However, because each school makes the final decision on which bilingual/ESL instructional program to use and which teaching method to apply, there is a wide variety in the quality of the program offered to ELL students in the different schools in the District.

More than 33 DCPS schools have Latino Spanish-speaking populations representing more than 10% of the total student body. These schools with large Latino populations (more than 10%) represent 20% of all DCPS schools. There are thus many schools in DCPS with significant Latino Spanish-speaking populations. Yet, only one school, Oyster Elementary School, offers a two-way bilingual program, which professional research has confirmed is superior to the other bilingual instructional programs. The remaining schools utilize a broad range of bilingual education programs that differ vastly in effectiveness. DCPS does not appear to have in place any policy to ensure that those schools with larger Latino populations implement the most intensive and effective bilingual programs.

Resources and staffing for the bilingual education program have improved over the past five or six years. DCPS now has a weighted formula for the amount of money provided for each student in the public school system, which provides for an additional special weight for students needing bilingual education services. And, a formula has been established to ensure that the number of bilingual teachers corresponds adequately to the number of ELL students. However, community advocates and teachers alike agree that the current resources and numbers of bilingual teachers are still not adequate.

Parental communication with DCPS and administrators at the individual schools is extremely difficult, because insufficient efforts have been made to hire Spanish-speaking personnel

throughout the system. Parents find it difficult to speak with DCPS offices and with individual schools regarding their children's needs and the expectations placed on them. Some schools with significant Latino ELL populations reportedly have no administrative personnel that speak Spanish. Because it is impossible for them to interact with DCPS, parents often feel excluded.

There has been concern in the community in recent years that some Latino students are not even allowed to establish residency and register to attend public school in the District. Fortunately, there has recently been an improvement on this front in the adoption of more flexible residency requirements. Yet, additional work must be done to ensure that Spanish speaking parents and students understand their rights under the new rules as well as to guarantee that the rules are applied in the flexible manner in which they were intended.

DCPS has not yet adequately addressed the unique special education issues arising for ELL students. Coordination between the DCPS' Office of Bilingual Education and the Office of Special Education has been minimal. In addition, DCPS has not had enough bilingual assessment teams to adequately determine which students need special education services. As a result, problems of over-inclusion as well as under-inclusion of ELL students in special education in DCPS have not been resolved. These erroneous assignments have obvious grave consequences on the education that an ELL student will receive. When students are properly placed in special education, additional problems arise as there are few teachers or administrators involved in the special education program who can speak Spanish and communicate to Latino parents the education program that has been designed for their children.

Finally, Latino students have not always had access to the variety of special programs available at DCPS including, for example, tutoring programs or vocational education. Latino students seeking to enter college have also often been unable to access the counseling and other assistance they need to accomplish that goal.

Recommendations

1. DCPS should ensure that the procedures for identifying language minority students are scrupulously followed by all school district personnel. DCPS should engage in additional efforts to educate principals and staff at individual schools regarding those procedures in order to achieve this goal.
2. DCPS should make a concerted effort to get all teachers, including regular non-bilingual teachers, involved in the education of English language learners. As part of that effort, DCPS should give teachers the LAS test scores available for the students in their individual classes.
3. DCPS should more carefully track and supervise the decisions made by individual schools regarding the types of bilingual programs they will implement to ensure that all such programs meet the requirements of federal law.
4. DCPS should immediately make plans to open additional two-way bilingual schools in addition to Oyster Elementary School.
5. DCPS should dedicate additional financial resources to the ESL programs at the individual schools.

6. DCPS should take immediate steps to recruit, hire and retain additional bilingual teachers.

7. DCPS should conduct an audit to determine whether schools are properly using the Student Assessment Matrix and assessing the progress of ELLs.

8. DCPS should take immediate steps to recruit, hire and retain additional bilingual personnel for the individual schools and for crucial points of contact with parents, such as the Office of Parent Affairs.

9. DCPS should ensure that its rules for establishing residency in the District of Columbia are applied in the flexible manner in which they were intended.

10. DCPS should establish a clear structure for communication and coordination between DCPS' Bilingual Education Office and the Office of Special Education to facilitate the appropriate placement of NEP/LEP students with special needs.

11. DCPS should take immediate steps to recruit, hire and retain personnel with Spanish language skills for the special education program.

Access to Justice

A Latino criminal defendant or victim of crime will interact with an entire range of governmental entities as the criminal investigation and prosecution progress. Latino immigrants continue to face difficulties in their interactions with each of these points of contact.

A Latino was finally appointed to the Board of Trustees of the Public Defender Service for the District of Columbia (“PDS”) in 1999 after many years without such a presence. However, PDS still has not followed recommendations to set up a satellite office in Adams Morgan or Mount Pleasant.

PDS has hired additional Spanish-speaking attorneys over the last decade. At the time of the Mount Pleasant disturbances, PDS employed only three Spanish-speaking attorneys. Eight are now available. However, data is not available to determine whether an increase in the number of Spanish-speaking PDS clients has outstripped this capability. In addition, only two of these attorneys are available to try difficult or complex felony cases. The current number of Spanish-speaking attorneys does not appear to be adequate to serve all of the Spanish-speaking clients of PDS, particularly given the extra time and effort that it often takes to investigate, prepare and try a case involving a Latino immigrant defendant and witnesses who do not necessarily speak English.

There have been some improvements in the availability of Spanish-speaking attorneys through the CJA (court-appointed attorney) system, which serves as an alternative to the PDS system for providing indigent defendants with free representation. The number of Spanish-speaking attorneys on the CJA list has increased from 8 to 19. However, the Spanish-speaking attorneys in the CJA system still represent only about 6 % of the total number of CJA attorneys, and many apparently do not have strong capabilities in Spanish.

In the D.C. courts themselves, efforts are made to provide certified Spanish language interpretation for formal proceedings and for attorney-client meetings taking place at the court. However, proceedings sometimes still go forward without an interpreter. This problem may be more prevalent after 5 p.m. and on weekends when the office for interpreter services is not open. In some cases, Spanish-speaking defense attorneys have even been called to provide interpreter services.

The D.C. courts have failed to make significant advances in ensuring that Spanish-speaking personnel are available in positions of public contact within the court system. Spanish speakers and Latinos together represent only 4% of the total non-judicial staff at the court system. And, some of the Latino employees composing this small percentage of the overall staff may not speak Spanish.

The Pre-Trial Services Agency (“PSA”), an important point of contact for Latinos accused of crimes, has made some improvements in its capacity to deal with Spanish-speaking Latinos. PSA conducts interviews of all arrestees and then makes a recommendation to the court regarding the advisability of pre-trial release. PSA is also responsible for supervising any conditions of pre-trial release imposed, such as submission to drug testing.

A decade ago, PSA employed a wholly inadequate number of Spanish-speaking Pre-Trial Services Officers (“PSOs”). The most grave result of this shortage was that Spanish-speaking PSOs were often not available after hours or on weekends. Some Latinos were forced to remain in jail

overnight or over a weekend, because no PSO was available to interview them, allowing them to be released on citation to return to court.

Currently, PSA hires a greater number of Spanish-speaking PSOs, and at least one Spanish-speaking PSO is almost always available, including after regular working hours. However, the total Spanish-speaking staff at the Pre-Trial Services Agency still represents less than 4% of the overall staff at the agency.

It is commonly accepted, by Latino defendants and PSA personnel alike, that PSA should employ greater numbers of Spanish-speaking PSOs. Without adequate numbers of Spanish-speaking PSOs, Latino defendants continue to face unfair rates of pre-trial detention. It is too often the case that inadequate information is obtained to provide an initial recommendation for release of a Latino defendant. And, when pre-trial release is allowed, violation of the requirements of release are frequently the consequence of the Latino defendant's inability to communicate with his supervising PSO, resulting in a return to detention.

After the Mount Pleasant disturbances, a recommendation was made for PSA to increase its presence in Mount Pleasant. Although PSA has expressed a strong interest in implementing a more community-based pre-trial services program, adequate progress has not been made on that front. PSA has yet to open any service center in the Mount Pleasant area.

The office of Community Supervision Services ("CSS"), the agency now handling supervision of parole and probation services after the abolition of the D.C. Board of Parole, has only recently transferred to federal control, making it difficult to evaluate its progress in addressing the needs of the Latino population. The agency now has more resources and has established an ambitious plan for recruiting additional Spanish-speaking personnel and for ensuring that its personnel is aware of the unique cultural realities of the Latino population. A positive sign is the fact that the number of Spanish-speaking Community Supervision Officers ("CSOs") employed by CSS has increased at a more rapid rate than the growth of personnel at the agency in general over the last decade.

However, there still is not a single Spanish-speaking CSO employed in the Intake Unit for CSS. Without a Spanish-speaking presence in this unit, it may be difficult for Spanish speakers to obtain parole or probation as an alternative to incarceration in the first place, because CSS makes the sentencing recommendation to the judge, and that process begins with the intake. In addition, the agency has made very little effort to provide written explanatory materials in Spanish.

Certain special programs administered by CSS also remain largely out of the reach of Latinos. A particular problem is the lack of in-patient drug and alcohol treatment centers that can provide adequate service to members of the Latino community.

The needs of Spanish-speaking victims are just beginning to be taken into account in the context of the criminal justice system in Washington, D.C. At the moment, the most serious problem in this area appears to be a failure on the part of prosecutorial offices and the courts to maintain statistical data regarding the numbers of Spanish-speaking victims and witnesses with which they come into contact. On an operational level, the most serious problem faced by many Latino victims and witnesses is the insistence by prosecutors that all testimony be provided in English. Another serious difficulty is created as a result of the D.C. court system's failure to provide any notices regarding court proceedings in Spanish.

The U.S. Attorney's Office in the District of Columbia has established a Victim and Witness Assistance Unit. At the moment, two of the 25 staff members in the Unit are Spanish speakers. However, the Unit does not appear to have any policy for addressing the special needs of Spanish speakers and Latinos. The D.C. Office of Corporation Counsel has no victim/witness unit at all and so has made no effort to address the needs of Spanish-speaking and Latino victims and witnesses.

Recommendations

1. The Public Defender Service should:
 - Create a system to collect, maintain, monitor and update statistics on its client population, with special attention paid to differences in turnaround times for Latino clients as compared with PDS' other client groups;
 - Adopt, at the Board of Trustees level, a long-term and sustained policy advocating the recruitment and retention of bilingual and bicultural attorneys and non-attorney staff;
 - Seek enhanced authority to offer incentives to attract, hire and retain bilingual and bicultural attorneys and non-attorney staff;
 - Establish an outreach program that reaches beyond Indiana and Rhode Island Avenues and goes to where the Latino community lives;
 - Develop a plan for maintaining the role of PDS' immigration attorney specialist in a manner that addresses the needs of non-citizen Latino defendants; and
 - Consider the above issues as continuing, permanent "policy" matters at the Board of Trustees level.

2. The Pre-Trial Services Agency should:
 - Increase its total number of Spanish-speaking employees.
 - Specifically identify in its Strategic Plan recruitment and training of Spanish-speaking employees as one of the agency's goals and make public this Plan.

3. The Community Supervision Services Office should:
 - Place renewed emphasis on recruiting, hiring and retaining Spanish-speaking and Latino personnel.
 - Translate into Spanish all important printed materials.
 - Take measures to ensure greater availability for Latinos of in-patient drug and alcohol treatment centers.

4. The Victim Witness Assistance Unit for the U.S. Attorney's Office should:
 - Keep records regarding the number of Spanish speaking victims. If this number warrants, additional Spanish-speaking victim advocates should be hired.
 - Together with the appropriate policy-making body in the U.S. Attorney's Office or Department of Justice, have a policy on the treatment of Spanish-speaking victims so that those victims' needs can be determined and more adequately addressed.
 - Consider creating an informal workgroup to document the experience of victims in an effort to improve the experience for Spanish-speaking victims and ensure that their rights are not being violated.

5. The Office of Corporation Counsel should:
 - Keep records regarding the number of attorneys who are Latino or who are Spanish-speaking.
 - Have a policy on the treatment of Latino victims so that those victims' needs can be determined and more adequately addressed.
 - Institute some form of victims assistance program with a Spanish-speaking victim's liaison.

6. The D.C. court system should:
 - Ensure that it sends notices of hearings and trials to Spanish-speaking victims and witnesses in Spanish.
 - Place renewed emphasis on recruiting, hiring and retaining Spanish-speaking and Latino non-judicial personnel.

Moving a Latino Civil Rights Agenda Forward

In the ten years since the Mount Pleasant disturbances, agencies providing services to the Latino population in Washington, DC have grown exponentially in number and strength. Community based and advocacy organizations working with the Latino community, such as the Council of Latino Agencies, the Latino Civil Rights Task Force, the Central American Resource Center, AYUDA, Mary's Center for Maternal and Child Care, Calvary Bilingual Multicultural Learning Center, Carlos Rosario Adult Education Center, Latin American Youth Center and many others, have been able to provide a truly exceptional level of services. The focus on the unmet needs of the Latino community resulting from the Mount Pleasant disturbances helped to encourage this expanded capacity and capability of non-profit organizations.

Unfortunately, for a variety of reasons, these organizations were limited in their ability to press forward with advocacy and litigation on the civil rights issues identified as requiring resolution in the aftermath of the Mount Pleasant disturbances. The Review Panel is hopeful that this project's focus on diagnosing and analyzing the problems faced by the Latino community today will provide a strong base for the promotion of a Latino civil rights agenda in the Washington, DC area. Sustained advocacy by community representatives and agencies will be the key to success in this endeavor. The work of local advocates should also be supported by national advocacy organizations, local and national foundations and the legal community.

The Review Panel is also hopeful that the analyses, which have been prepared, will create the political will in governmental policymakers to take the measures necessary to correct the civil rights abuses and exclusion experienced by the Latino community in the Washington, D.C. metropolitan area. The reports identify some measures taken by the D.C. government to improve respect for the rights of Latinos since the Mount Pleasant disturbances. However, the findings set forth in the reports also reveal a number of actions and policies of the District of Columbia continuing today, which might constitute civil rights violations against Latinos.

The District of Columbia government should act now to adopt all of the recommendations set forth in the reports in order to combat to the maximum extent possible the violations of civil rights taking place in the District. It would certainly be in the best interest of the District of Columbia government and taxpayers to resolve these issues voluntarily rather than face costly and time-consuming litigation. The District should explore its own internal mechanisms to improve relations with the Latino community, for example by strengthening and refocusing the work of the Office of Latino Affairs.

Finally, federal governmental agencies, such as the Equal Employment Opportunity Commission, the Department of Housing and Urban Development and the Department of Justice, should play a more active role in improving civil rights for Latinos in Washington, D.C. These agencies should engage their technical support, supervision and enforcement capabilities in treating the civil rights issues raised by the Latino community here in the very city where they are based.

Washington, D.C. is the capital of a nation proud of its protections against discrimination and in favor of civil rights. If there is any place where Latinos should be free from exclusion and civil rights abuses, it is here in this capital city. The Review Panel fervently hopes that this contribution to the analysis of the civil rights issues affecting Latinos will bring us all one step closer to a just and inclusive Washington, D.C.