

A City to Model

Six Proposals for Protecting Public Safety and Improving Relationships
Between Immigrant Communities and the City of New Haven

Junta for Progressive Action, Inc.
and
Unidad Latina en Acción

New Haven, Connecticut
October, 2005

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ACKNOWLEDGEMENTS

This report would not have been possible without the invaluable assistance provided by Yale Law School's Community Lawyering Clinic ("CLC"). The CLC fuses traditional civil legal services representation with collaborative, community-based strategies for solving community problems and empowering clients. JUNTA has been a CLC site since the fall of 2002.

The supervising clinical professor on this project was Michael Wishnie, without whose guidance this report would not have been possible. Contributing students included Erin Bradrick, Liam Brennan, Clara Brillembourg, Annie Decker and Jonathan Marcus.

The research prepared for this report by the CLC on behalf of Junta for Progressive Action stands within its mission of "advocating for and representing the urban poor at outreach sites throughout New Haven."¹ The CLC is part of the Jerome N. Frank Legal Services Organization (LSO), which "links law students with individuals and organizations in need of legal help who cannot afford private attorneys. Students, supervised by Law School faculty members and participating attorneys, interview clients, write briefs, prepare witnesses, try cases, negotiate settlements, draft documents and new legislation, participate in commercial transactions, arrange "deals," and argue appeals in state and federal courts, including the U.S. Court of Appeals for the Second Circuit and the Connecticut Supreme Court."²

ABOUT THE ORGANIZATIONS THAT COMMISSIONED THIS REPORT

Junta for Progressive Action, Inc.

Founded in 1969, Junta for Progressive Action, Inc. (“JUNTA”) is the oldest community-based nonprofit serving the low-income, Latino and immigrant communities of the New Haven, Connecticut region. Junta performs a unique combination of public advocacy, policy analysis, direct service provision and inter/cultural.

JUNTA’s programs include adult education (ESL, GED in English and Spanish, computer classes, adult literacy), economic development (employment, financial literacy classes, micro-micro loans, tax preparation services), the Immigrants’ Rights Project, legal advocacy, family advocacy/case management, youth programming (after-school care, summer program, and summer camp), housing, cultural awareness and translation services. In 2004, JUNTA served approximately 4,000 clients.³

Our collaborators include New Haven Adult Education, the Yale Child Study Center, Unidad Latina en Acción, the Grand Avenue Village Association, CitySeed, and the Yale Law School.

Unidad Latina en Acción

Unidad Latina en Acción (Latinos United in Action, “ULA”) is a grassroots organization in New Haven that advocates for the rights of immigrants. It was founded in 2003.

FOREWORD

Like other cities in the Northeast, in the last several years, New Haven has experienced a rapid growth of its Latino immigrant population. Latinos now comprise the fastest growing population in New Haven and Connecticut.

A majority of newly arriving Latinos have settled in Fair Haven, New Haven's historic port of entry for newly arrived immigrants. Latinos today account for 50.3 percent of all Fair Haven residents, making it the largest immigrant group.⁴ This statistic does not account for the dramatic number of undocumented immigrants who have moved to New Haven in the last few years: by our best estimates, between 3,000-5,000 undocumented immigrants live in Fair Haven alone.⁵

Junta for Progressive Action ("JUNTA") and Unidad Latina en Acción ("ULA") have been working collaboratively to address the unique needs of the Latino immigrant population in New Haven. Both organizations embrace and support an atmosphere of respect and civil treatment for immigrants in New Haven, including individuals without immigration documents. JUNTA and ULA have been working in New Haven's neighborhoods to achieve significant improvements in the conditions of life for New Haven's immigrants.

This report presents six of seven initiatives that were presented to New Haven City Hall in March of 2005.⁶ The purpose of these initiatives is to protect public safety and improve the relationship between New Haven's new immigrant community and the city of New Haven. The report was collaboration between JUNTA, ULA and Yale Law School's Community Lawyering Clinic.⁷

EXECUTIVE SUMMARY

City governments face important choices when allocating resources to the community. The desire for greater public safety always tops the list of local concerns, especially in the New Haven area. The following document lays out six important strategies that the City of New Haven could pursue in response to the desire of local residents for secure streets and homes. In addition to increasing public safety, these strategies would improve the effectiveness of the New Haven Police Department, local financial institutions, and the city government itself. The proposals build on work by communities nationwide—in particular immigrant ones—to increase their safety level while strengthening their connections with city officials.

New Haven has the third-largest Latino population in Connecticut and the seventh-largest in the New England states. Though the overall population of New Haven decreased by 5.2% from 1990 to 2000, the Latino community grew more quickly than any other group, by 53.4% (or 9,200 people).⁸ In 2000, 21.4% of New Haven residents were of Hispanic or Latino origin, compared with only 9.4% of the Connecticut residents.⁹ In other words, along with the rest of the nation, New Haven is experiencing a strong demographic increase in its Latino immigrant community, creating opportunities for new types of city-community relationships.

The major security concerns of the New Haven immigrant community include 1) the high rate of theft in their homes and on the way home from work because they cannot open bank accounts to protect their earnings and so must carry cash; 2) the under-reporting of crimes to the police,¹⁰ due to immigrants' fears that they lack identification that the authorities will recognize or other worries based on the lack of trusting relationships between the residents and law enforcement; and 3) the underpayment or nonpayment of wages when unscrupulous employers take advantage of immigrant workers' vulnerabilities.¹¹

In response, JUNTA and ULA are bringing to the City of New Haven the following six proposals for increasing public safety at the same time as improving the effectiveness of local government. While these strategies would be innovative in New Haven, they also have been tested in other communities. New Haven would be able to effect change through actions as simple as a few phone calls or through longer-term commitments. An array of benefits would result from these actions, as summarized here.

1. Notifying New Haven financial institutions that customers can open bank accounts without Social Security numbers.

Perhaps the easiest first step that the City of New Haven could take to improve both public safety and relationships with the immigrant community would be to let financial institutions know that nothing in federal or state law requires individuals to have a Social Security number in order to open a bank account. Reasonable guidelines exist and should be enforced for what constitutes acceptable alternative forms of identification, but nothing should be stopping immigrants from opening bank accounts. By helping banks understand what the law allows, the City can ensure that immigrants do not worry about robberies as they walk home from work with large amounts of cash, or thefts in their own homes.

2. Creating a municipal identification card for the City of New Haven.

Similarly, the City is allowed to create a municipal identification card for those individuals who, for a variety of reasons, do not have the most commonly recognized forms of identification. Cities across the country have been issuing such cards for a variety of purposes. Doing so in New Haven would be a symbolic and practically important step for those residents who cannot participate in community affairs because of identification barriers.

3. Developing a New Haven Police Department policy of non-enforcement of federal immigration laws.

While our national security matters to cities, certain matters are best handled by federal agencies. The U.S. Department of Justice is attempting to convince local authorities that they too, should be involved in enforcing immigration laws by, for example, loading immigrant records into the databases that police officers use. Yet cities nationwide are resisting this attempt to divert their law enforcement resources. The New Haven Police Department should join this trend and develop a formal policy that will keep its officers focused on the mission of combating local crime and leave immigration enforcement to the federal government, which is best suited for such work.

4. Enforcing criminal wage laws through the New Haven Police Department.

Although the Connecticut statutes have a host of criminal provisions protecting workers from exploitation on the job and in the payment of their wages, these provisions are under-enforced. Workers are being deprived of money they are due by employers who exploit workers' fear of law enforcement and their need for jobs. In response, several communities have developed or are in the process of developing effective programs for police to enforce the criminal provisions of state laws that protect workers, such as "theft of services" penalties and penalties in the wage and hour codes. Involving the police in preventing the theft of wages to immigrant workers both helps the police serve their mission and improves police-community relationships.

5. Looking to best practices nationwide for improving police-community relations.

The broader context for these proposals is the need to address the New Haven Police Department's challenge of protecting and serving a large and growing Latino population, many of whom are so fearful of or unfamiliar with police that many crimes against them go unreported. A range of opportunities exists for New Haven to improve the police department's relationship with the Latino community, as shown by the initiatives taken by cities across the country. These opportunities range from police officer and citizen programs to administrative solutions and Mayor-sponsored initiatives. These "best practices" both would support the previous four initiatives mentioned and would strengthen crime prevention and reporting directly.

6. Creating an Office of Immigrant Affairs.

Newly arrived immigrants are in need of a culturally relevant form of outreach and assistance in order to become more familiar with the city's services, programs and opportunities. While some area non-profit organizations have stepped in to fill some of the most obvious gaps in services, other existing needs have not been adequately met, particularly those related to municipal programs and services. Conversely, there is currently no formal mechanism for the city to engage with and learn about its immigrant population. The creation of an Office of Immigrant Affairs would address this need and would greatly benefit the city of New Haven and its immigrant population.

PROPOSAL 1: PROVIDING ACCESS TO NEW HAVEN BANK ACCOUNTS

While many New Haven banks continue to deny accounts to applicants who lack Social Security numbers, nothing in federal or state banking law requires this practice. Banks can allow customers to use foreign-issued forms of identification to open accounts, a practice that has been implemented by banks in other municipalities. A change in policy by New Haven banks would allow recent immigrants to protect their earnings in bank accounts just like other members of the New Haven community.

At the federal level, the USA PATRIOT Act of 2001 modified the federal United States Code to require banks to obtain such identification from account applicants as necessary to verify the identity of the applicant -- to the extent reasonable and practicable. In setting forth the minimum standards for financial institutions regarding the verification of the identity of account applicants, the U.S. Department of the Treasury stated that financial institutions need not request a Social Security number from account applicants and could instead accept appropriate foreign-issued documents as valid forms of identification. In fact, the department's recommendation was that banks not require applicants to obtain a Social Security number or individual taxpayer identification number prior to opening an account.¹²

At the state level, the Connecticut General Statutes have a positive requirement that banks must accept any identification issued by the Department of Motor Vehicles (DMV) as valid identification for opening an account. However, they have no requirement that banks base the opening of an account on a Social Security number, or that banks reject foreign-issued forms of identification.¹³

A. Federal Statutes and Regulations

On October 26, 2001, in response to the terrorist attacks of September 11, 2001, President Bush signed into law the USA PATRIOT Act.¹⁴ The Act was designed in part to assist federal law enforcement and financial regulatory officials in combating terrorism and terrorist-sponsored money laundering. The USA PATRIOT Act made several changes to the existing federal banking statute, known as the Currency and Foreign Transactions Act and the Bank Secrecy Act. Section 326 of the USA PATRIOT Act amended Section 5318 of the United States Code Title 31, the Bank Secrecy Act, to require that the Secretary of the Treasury set forth regulations governing the minimum standards for financial institutions regarding the identification of customers opening bank accounts.¹⁵ Section 326 placed three minimum requirements on the standards to be set forth by the Secretary of the Treasury: 1) financial institutions must verify the identity of the applicant to the extent reasonable and practicable; 2) must maintain records of information used to verify a person's identity; and 3) must consult lists of known terrorists when opening an account.¹⁶ Section 326(b) of the USA PATRIOT Act required the Treasury Department to submit a report to Congress outlining the system of identification of foreign nationals that domestic financial institutions should use in opening accounts for such individuals.¹⁷

The Treasury Department issued a report to Congress in October 2002. The Treasury Report stated that the complexities surrounding the practices and regulations of financial institutions and the lack of a standardized identification system of foreign nationals made it impractical for the Department to establish rigid and strict identification requirements.¹⁸ Rather, the report reaffirmed the provision of the USA PATRIOT Act that financial institutions, including banks require such forms of identification as necessary to verify an account applicant's identity to the extent reasonable and practicable. This has left much room for flexibility in the requirements and practices of individual banks and financial institutions.

The rules proposed by the Treasury state that banks need not require a Social Security number or an individual taxpayer identification number from foreign nationals seeking to open an account.¹⁹ However, each financial institution is required to create a customer identification program describing what type of identification it will require from foreign nationals in lieu of these

identification numbers. The Treasury report made clear that banks may accept various foreign documents as valid forms of identification for verifying an applicant's identity, including a passport number and country of issuance, an alien identification card number, or the number and country of issuance of any other government-issued document that states the applicant's nationality or residence and contains a photograph. In addition, the report made clear that that all individuals, including foreign nationals, must provide a bank with their name, address, and date of birth prior to opening an account.²⁰ On September 18, 2003, after reviewing the public comments about the implementation of Section 326 of the USA PATRIOT Act, the Treasury Department issued a press release stating that it would not seek changes to the rules it had issued and would not prohibit the acceptance of foreign-issued identification documents.²¹

Thus, overall, federal law does not dictate the specific types of identification that banks must require of individuals applying to open accounts, but rather mandates that financial institutions use such methods as are "sufficient to enable the financial institution to form a reasonable belief that it knows the customer's true identity."²² The Treasury report also recognized the Department's desire to move unbanked individuals, including foreign nationals, into the mainstream financial system and its reluctance to enforce any identification requirements inconsistent with this initiative.²³

B. Connecticut Statutes and Regulations

There is no state law requiring Social Security numbers from account applicants. The only reference to identification requirements for bank accounts is contained in the Connecticut General Statutes Section 36a-306, which requires that Connecticut banks and credit unions accept any identification card issued by the DMV as valid identification for opening an account with that bank or credit union.²⁴ Section 1-1h of the Connecticut General Statutes states that any person who does not possess a valid driver's license may apply to the DMV for an identity card.²⁵ An application for an identity card must include the applicant's name, address, and date of birth and must be accompanied by the individual's birth certificate. According to Section 36a-306 of the Connecticut General Statutes, state banks must accept such identity cards as a valid identification for opening an account. However, nothing in Connecticut state law requires banks to collect the Social Security number of an individual applying for an account or prohibits banks from accepting foreign-issued identity cards as identification.

C. Current Bank Practices

National banks increasingly are accepting foreign-issued identification documents. Wells Fargo accepts the Mexican-issued Matricula Consular as well as the Guatemalan Consular Identification Card.²⁶ Citibank, Bank of America, and U.S. Bancorp also accept the Matricula Consular nationwide.²⁷ Federal officials have not officially endorsed the acceptance of the Matricula Consular, but they have stated that the terms of Section 326 of the USA PATRIOT Act do not discourage its use.²⁸ The forms of identification required by the Mexican Consulate to obtain a Matricula Consular are stringent: an original birth certificate, another official form of identification containing a photograph, personal information, and a document with the applicant's current address. There are also multiple security features in place with the Matricula Consular to deter counterfeits.²⁹ In addition to adopting formal policies of acceptance of foreign-issued identification cards, banks must inform their tellers about the acceptance policy to ensure adequate service for account applicants.

Conclusion

Nothing in federal or Connecticut banking law mandates that banks require a Social Security number from account applicants or that banks must refuse appropriate foreign-issued documents for opening an account. New Haven banks, and those with branches in the city should proceed with a policy allowing local residents to open bank accounts with other appropriate forms of identification.

**PROPOSAL 2:
CREATING NEW HAVEN MUNICIPAL IDENTIFICATION CARDS**

Immigrants—undocumented ones in particular—have a difficult time maneuvering the labyrinth of social and legal barriers that they encounter in a new country. Many New Haven residents are not able to participate in local commerce and other forms of civic engagement, such as opening library and bank accounts, because they lack accepted forms of identification. Like new immigrants elsewhere, the growing Latino community in New Haven works primarily in a cash economy and its members are frequent targets for property and theft crimes. Providing residents who otherwise cannot produce proof of identity would help overcome the reluctance to report crimes they suffer or witness and more generally promote the integration of all New Haven residents into civic life.

No federal or state law bars a municipality such as New Haven from issuing its own identification cards to any resident who might wish to have one, regardless of the resident's immigration status. Some Connecticut cities issue what they call a City Identification Card to their employees, and a Connecticut statute recognizes the possibility that municipalities in the state may issue their own identification cards. Moreover, cities across the country issue other kinds of identification cards: for example, to city employees and for residential parking permits or the use of municipal parks or beaches. Each identification system is meant to denote the card-bearer as either a city resident or employee through the legitimacy of the city government. While its situation is unique as a city without a state, Washington, D.C., provides an encouraging example of a city that issues its own identification cards.

A. Connecticut Statutes and Municipal Identification

Connecticut law grants each municipality broad police and spending powers to adopt measures in furtherance of the health, welfare, and public safety of its residents.³⁰ Issuance of municipal identification cards to city residents is well within these traditional powers.

Nothing in state law requires proof of lawful immigration status as a condition for issuance of a municipal identification card. The only Connecticut provision addressing identification cards pertains to state identification cards. Connecticut General Statute § 1-1h discusses the procedure with which the state shall issue identity cards. It states that any person who does not possess a valid driver's license may apply for an identity card from the Department of Motor Vehicles. The statute states that an application for an identity card will include "1) The applicant's name; (2) the applicant's address; (3) whether the address is permanent or temporary; (4) the applicant's birth date; (5) notice to the applicant that false statements on such application are punishable under section 53a-157b; and (6) such other pertinent information as the Commissioner of Motor Vehicles deems necessary."³¹ The statute does not require that applicants produce a Social Security number. Moreover, the law does not bar municipalities from issuing their own identification cards, nor set any requirements of municipal identification cards if issued.³²

One state statute actually recognizes the possibility that a municipality will issue its own identification cards. The state public service company statute states that such a company may request identification from a person opening an account. The statute defines identification as a

Social Security number, the number of an identity card issued pursuant to section 1-1h, the number of a motor vehicle operator's license issued pursuant to section 14-36, a valid passport issued by the United States or a foreign government, a resident alien card or an alien registration card issued by the United States Immigration and Naturalization Service, any other valid forms of identification issued by the federal government or a state or *municipal government*, or any other means of identification approved by the Department of Public Utility Control.³³

This statement presupposes the possibility that a Connecticut town may issue its own form of identification. It would be unlikely that the state would allow the Department of Public Utility

Control to recognize forms of identification issued by the municipal government, while the state itself barred municipal governments from doing just that.

In fact, Connecticut municipalities have issued certain kinds of city identification cards. Both Hartford³⁴ and Stamford issue city identification cards to their employees.³⁵ These are not resident ID cards, but they do act as official recognition by the city government of those persons who work and have access to city facilities. For the most part these IDs are meant to be used as a security measure to denote who may or may not use government property or gain entrance to a specific location. These IDs are common throughout the country, from Plano, Texas,³⁶ to Long Beach, California.³⁷

B. Other U.S. Cities

The National League of Cities has pointed to the example of Washington, D.C., in issuing its own identification cards for residents.³⁸ D.C. requires that applicants for a non-Driver Identification Card prove that they are both over the age of 15 and residents of the district. They must also provide proof of residency, proof of current residency, and a Social Security number.³⁹ The special distinction of D.C. as a city without a state may make it an anomaly, for it has to assume the duties of both city and state. No other cities identified to date issue such identification cards to residents.

However, identification cards issued by municipal governments to residents for specific purposes do exist. In addition to identification for city employees, many cities issue identification cards for use of parks and recreation facilities. Westminster, Colorado, issues a recreation card to residents through its parks department, provided that the resident has a valid Colorado driver's license or a state-issued ID.⁴⁰ The City of Florissant, Missouri, issues a Resident Card so that residents may have access to community centers, pools, an ice rink, and all other recreation facilities. Card-bearers may also obtain picnic permits and resident rates for classes and room rentals. In order to obtain a card, the resident must provide a valid photo ID and an unpaid utility bill from the previous month or a monthly business statement. Adventura, Florida, issues Identification Cards on behalf of the city so that residents can "obtain free access to City parks, events, and to enroll in City sponsored programs."⁴¹ In order to obtain a card, a resident must provide a proof of residency at the government center. Individuals can prove residency with a Florida driver's license, Florida identification card, voter's registration card, passport, electric, telephone or utility bill, or mortgage deed or lease.⁴²

California recently began issuing identification cards to clarify which citizens had a right to possess marijuana for medical use. A 1996 law passed statewide authorized marijuana for medical use under a doctor's directions. Between the time the law passed, in 1996, and February 2005, there was no standard way to identify citizens who were legally permitted to use marijuana. During that time, San Francisco issued identification cards to residents who qualified for the program.⁴³ San Diego contemplated a similar plan but opted to wait for a state ID.⁴⁴

C. Federal law

Federal law presents no obstacle to the city's creation of municipal ids. Issuance of municipal documents such as residential identification documents are within the traditional police and social welfare powers of state and local governments, and federal law does not generally address such matters. Nothing in the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*, limits the authority of the City of New Haven to issue municipal identification documents to any city resident who applies, without regard to immigration status.

Until this year, federal law also did not forbid states from issuing driver's licenses without regard to immigration status. This spring, however, Congress broke from its tradition of leaving to state governments the regulation of any identification records they might choose to issue when it passed and President Bush signed into law the REAL ID Act of 2005.⁴⁵ This Act for the first time establishes as a matter of federal law a rule that states require proof of lawful immigration status as a condition for issuing a driver's license or state identification card.⁴⁶ The REAL ID Act does not

address documents other than a driver's license or state-issued identification card, nor does it apply to jurisdictions other than states (such as counties, cities, towns, or villages).⁴⁷

Passage of the REAL ID Act confirms that there is no federal obstacle to issuance of a municipal identification card: no other federal immigration, criminal, or other statute bars issuance of state or local government documents without regard to immigration status. If such a provision already existed, the REAL ID Act would have been superfluous. The REAL ID Act was meaningful, however, because no other federal provision impeded states from establishing their own document requirements. In short, the Act in no way casts doubt on, and by its very narrowness re-affirms, the longstanding authority of counties, cities, and towns to issue documents such as residential parking, beach or park access, or other identification records, without regard to immigration status. The REAL ID Act confirms that there are no other federal immigration, criminal or other statutes that impose an immigration status requirement upon issuance of local identification records.

D. Protection of data

In light of the law enforcement exceptions to state and federal privacy statutes,⁴⁸ the City of New Haven will not be able to offer an iron-clad guarantee to applicants that information collected in connection with issuance of a municipal identification card would never be shared with any other federal, state, or local agency, including the U.S. Department of Homeland Security. Nevertheless, we believe such information-sharing would not occur except in connection with investigations of specific individuals already of interest to law enforcement. In this regard, municipal identification records would be no different from innumerable other records generated by state or local governments, including property, taxation, public benefits, child welfare, and licensing records. State and local agencies do not routinely forward such non-criminal records to law enforcement agencies, but in some circumstances may cooperate with investigations of specific individuals upon request. Moreover, experience with "Matricula Consular" cards issued by the Mexican Embassy and Individual Taxpayer Identification Numbers (ITINs) issued by the U.S. Internal Revenue Service demonstrates that undocumented immigrants will not hesitate to apply for a municipal identification card, even if the undocumented are among the principal users of the card.

First, the City of New Haven and its agencies are "public agencies," and records related to application for or issuance of a municipal identification card would constitute "public records or files" as those terms are defined in Connecticut's Freedom of Information Act.⁴⁹ The city would properly maintain the confidentiality of such records, however, under the exemption for disclosure of "Personnel or medical files and similar files the disclosure of which would constitute an invasion of personal privacy."⁵⁰ To the extent the municipal identification program were adopted as a public safety measure, application and issuance records may also be exempt as "[r]ecords of law enforcement agencies not otherwise available to the public which records were compiled in connection with the detection or investigation of crime."⁵¹ The city would thus properly refuse most requests to share municipal identification card records.⁵²

Second, it is unlikely that the Department of Homeland Security would make a blanket request for all records relating to municipal identification cards, for instance in connection with a targeted investigation of undocumented immigrants in New Haven. Even before the September 11 terrorist attacks, federal immigration authorities focused their limited enforcement resources on anti-smuggling initiatives and apprehension and removal of persons with criminal convictions. Since September 11, these immigration enforcement resources have been directed almost exclusively at counter-terrorism programs, including smuggling operations, surveys of "critical infrastructure" facilities, and initiatives focused on men from predominantly Muslim, Arab, or South Asian countries, as well as a continuing emphasis on removal of "criminal aliens."⁵³ For instance, DHS has almost ceased entirely its practice of worksite raids, issuing only three notices of intent to fine to all employers in the nation in 2004.⁵⁴ There is no legal barrier to DHS foregoing its counter-terrorism priorities in favor of investigating undocumented immigrants in New Haven, but such a shift of resources is highly unlikely, even with whatever access to city records DHS might be able to obtain.

Finally, two important precedents indicate that even when identification documents are made available on a generalized basis, with undocumented immigrants among the most frequent applicants, immigrants have not hesitated to seek such records for fear that immigration authorities may one day obtain access to records about applicants. In recent years, the Mexican and Guatemalan embassies and consulates have begun to issue a form of identification record (“matricula consular”) to their nationals, to facilitate access to bank accounts and other services for which their nationals are eligible (see Proposal 1, above). The possibility that DHS might seek access to bank records for account-holders who presented such consular identification records, in aid of immigration enforcement programs, has not deterred large numbers of Mexican and Guatemalan nationals from obtaining these records and using them to open bank accounts or obtain other services for which they are eligible.⁵⁵

For even longer, the U.S. Internal Revenue Service has issued Individual Taxpayer Identification Numbers (ITINs) “to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain a Social Security Number (SSN).”⁵⁶ Such persons include undocumented immigrants who earn wage income and wish to file an income tax return but have no SSN. For such persons, IRS issue ITINs “regardless of immigration status.”⁵⁷ IRS offers no guarantee that information regarding ITIN applications will not be shared with immigration authorities, but many thousand undocumented immigrants have nevertheless lawfully obtained ITINs and filed an income tax return.⁵⁸

Conclusion

Connecticut does not bar cities from creating their own identity cards. No statute states that only the state can issue identification cards. In fact, C.G.S.A. § 16-49e recognizes that cities may actually produce their own identification cards. If the state authorizes public companies to recognize municipal IDs, it would have little legal recourse to object to New Haven actually creating such an ID.

City governments throughout Connecticut and the U.S. issue IDs for a wide range of reasons. These actions have set a precedent that New Haven can follow, especially for IDs for intra-city affairs: parks, recreation centers, and municipal centers. The easiest path for New Haven would be to make no demands for recognition from other state or municipal governments for New Haven identification cards.

The City may properly withhold municipal identification information from disclosure under state law. Consistent with its enforcement priorities, before the September 11 attacks and even more so afterwards, DHS is highly unlikely to direct scarce resources towards an effort to compel the city to reveal any such records in connection with broad enforcement operation in New Haven. And experience with consular identification cards and ITINs indicates that there will be strong demand for a municipal identification, notwithstanding the inability of the city to guarantee that such records would never be shared with federal immigration authorities.

The invention of such an identification card would be new for New Haven, but it could have untold benefits for the city’s relationship with its residents and presents little risk for the city’s relationship with the state. The city should take the lead and launch, at the very least, a pilot program to create a New Haven resident ID.

**PROPOSAL 3:
DEVELOPING A POLICY BARRING NEW HAVEN POLICE DEPARTMENT
INVOLVEMENT IN FEDERAL IMMIGRATION ISSUES**

A. Federal power vs. local authority: who is responsible for immigration enforcement?

Immigration policy and enforcement is an issue of concern for individual states and for the nation as a whole. Though both state and federal governments are affected by immigration decisions, the U.S. Constitution confers upon Congress alone the power to set immigration policies. Since only the federal government has this power, it has traditionally possessed sole responsibility for executing immigration policy. Thus, Congress established federal agencies such as the Immigration and Naturalization Service (INS), now a part of the Department of Homeland Security (DHS), to carry out federal plans. While cooperation between local authorities and federal agencies does occur, such interactions are the exception rather than the rule. The Department of Justice (DOJ) has historically taken the position that only federal agents possess the power to conduct immigration enforcement operations, arguing that state and local police, do not have the authority to enforce civil immigration laws on their own. Local authorities generally agree with this position and defer to federal agencies on immigration issues.⁵⁹

Power over other concerns shared by local and federal authorities, such as crime, is not reserved for any one authority. National and local authorities both exercise policy and enforcement powers in criminal matters. Indeed, for crime enforcement to be effective, a large degree of cooperation between local and federal authorities is required. In an effort to facilitate information-sharing, the FBI maintains the National Crime Information Center (NCIC). This computerized database contains a wealth of criminal information, including individual records, stolen property listings, and outstanding warrants. Though created and maintained by federal authorities, the NCIC database is designed to be accessed by local police as well. Individual policies officers can run whatever information they possess on an individual through the computer system. If the system indicates that an individual is wanted for a criminal violation, possibly in another state or on a federal criminal warrant, local officers are then empowered to make a criminal arrest. Local officers do sometimes make immigration arrests based on NCIC information, but only for criminal immigration violations. Historically, when it came to civil immigration matters, the DOJ asserted that Congress had not delegated authority to local officials, and that local police were to keep their hands off.

B. Post 9/11: new roles for a new era?

After the September 11 attacks however, the DOJ quickly reversed its stand on the exclusivity of federal immigration powers. In April of 2002, the DOJ asserted in a classified memorandum that local law enforcement does in fact have the inherent power to make civil immigration arrests.⁶⁰ The DOJ now encourages local police to make immigration detentions, even for civil violations. Many police departments, citing numerous policy reasons not to embroil local authorities in federal immigration affairs, have resisted this pressure from the DOJ. The police departments of Los Angeles, Denver, Chicago, Boston, New York, Houston, Philadelphia, Baltimore, and dozens of other cities oppose local enforcement of immigration laws.⁶¹

Unable to compel local authorities to make immigration arrests,⁶² the DHS began instead to load information about immigration violators into the NCIC database. This includes alien absconders, who entered the country legally but have violated their visa conditions and not yet complied with a judicial order to leave the country, and records of individuals who fail to meet the reporting requirements of the National Security Entry-Exit Registration System (NSEERS).⁶³ DHS has stated its intention to load student visa violators into the NCIC as well, but it has yet to do so. All of these immigration violations are civil offenses. Some local authorities, like the police department of Houston, Texas, have instructed their officers directly not to inquire about immigration status or make immigration-related detentions.⁶⁴ DHS manipulation of the NCIC, however, threatens to subvert local policy decisions of this kind.

Police officers continue to make extensive use of the NCIC database, often unaware that the system no longer contains solely criminal information. Thus, if an officer runs information through the NCIC in the course of an everyday civilian encounter, the system may return a federal alert or detention request, even for civil violations of immigration law. Officers will often defer to such requests, assuming that the NCIC only contains information about criminal activity. Since dumping of immigration information into the NCIC began in 2001, this no longer has been the case. Local law enforcement officers are thus making immigration arrests, even if official department policy is not to get involved in such matters.

C. Local police enforcing federal law: who bears the costs?

Local enforcement of this type, whether intentional or not, has very real consequences.⁶⁵ Perhaps the most important of these is the chilling effect that police enforcement of immigration laws can have on relations with immigrant populations. This is of particular concern to cities such as New Haven with large immigrant communities. Once it becomes known that police are looking at immigration status in the course of their normal duties, legal and illegal immigrants alike often become far less willing to cooperate with local authorities. This is particularly true of undocumented immigrants, who may not report crimes or cooperate in criminal investigations for fear of being detained for immigration-related reasons.

Local enforcement of federal immigration law also imposes a severe strain on police resources. Though the federal government now encourages local enforcement, it provides no additional resources to local authorities to make such enforcement possible. If a police department does choose to take on the mission of immigration enforcement, it must do so with existing resources. This necessarily entails a diversion of resources to immigration matters and away from other priorities, reducing a police force's overall effectiveness.

Lastly, local enforcement of immigration laws exposes local authorities to legal liability. The use of prohibited measures such as racial profiling may increase significantly when police are on the lookout for immigration violations. No court has ever examined the DOJ position that police do possess the authority to make immigration arrests in the first place. It is unclear whether state law authorizes this type of detention. Local police thus run the risk of liability for wrongful arrest as well when they detain civil immigration law violators. Though the policies at issue are federal, it is local authorities who must bear the risks and costs associated with immigration enforcement.

Local authorities around the country have recognized the potential harmful effects of police enforcement of federal immigration law. Many have responded by declining to accede to DHS requests. Even traditionally conservative organizations, such as the International Association of Police Chiefs (IACP)⁶⁶ and the Heritage Foundation,⁶⁷ oppose the use of local police for immigration enforcement on policy grounds. Some authorities, such as the Houston Police Department, have gone so far as to explicitly instruct their officers not to make immigration inquiries. The entry of civil immigration information into the NCIC database, however, undermines many of these local policy decisions. With no knowledge of this information dumping or instruction on how to use this new incarnation of the NCIC, police officers may unwittingly be doing the federal government's job. It is imperative that localities educate themselves and their officers about DHS's recent actions in order to avoid entangling themselves in federal immigration affairs.

D. Next Steps for New Haven

New Haven, like most of the cities that have opposed local enforcement of immigration law, has a significant immigrant population, both legal and undocumented. Junta for Progressive Action and other organizations work closely with this critical component of New Haven's economy and community. Many immigrants, particularly the undocumented, simply do not trust local authorities. Some, mistakenly conflating local police with federal immigration authorities, do not report crimes or cooperate with criminal investigations for fear of immigration-related consequences.

The city government has not taken steps to combat this misconception, to the delight of criminals eager to take advantage of the confusion. While the New Haven Police Department may well have no interest in immigration enforcement, we are not aware of any official policy to that effect. The NHPD should announce such a policy both to its officers and to the community and make clear the mission and role of local law enforcement. The Connecticut Police Chiefs' Association has already opposed the idea of local enforcement of immigration law.⁶⁸

Once this policy is in place, New Haven should take the next step in improving relations with the immigrant community by taking a stand against the backdoor practice of loading immigration information into the NCIC. This cluttering compromises the effectiveness of the NCIC system and may in fact frustrate local attempts to reach out to immigrant populations. A clear refusal to enforce immigration law, coupled with training for police officers, will send a powerful message to New Haven's foreign-born residents, and demonstrate a real commitment to their well-being.

**PROPOSAL 4:
ENFORCING CRIMINAL WAGE LAWS
THROUGH THE NEW HAVEN POLICE DEPARTMENT**

The underpayment or complete non-payment of wages to low-income immigrant workers is a rampant problem. In response, advocates have been looking into a new strategy: working with local police departments and county attorneys to enforce the criminal provisions contained in state laws in order to recover workers' wages. Involving law enforcement is appealing for several reasons. Workers might receive their wages more quickly through police action than through civil processes. The threat of imprisonment and the greater social stigma of criminal than civil penalties might induce employers to pay back wages. Finally, knowing that police might come knocking could have a deterrent effect. The following memo discusses the possible advantages and disadvantages of such a strategy for New Haven in the context of Connecticut law and examples from other communities nationwide.⁶⁹ Unlike with the proposal to develop a non-enforcement policy for immigration laws, here we are looking for the local police to become more involved, as they are permitted by law, in a goal critical to New Haven residents: their livelihood.

A. Connecticut law

Three criminal provisions seem most promising for enforcement by New Haven police and prosecutors. Again, we do not need to develop new provisions that police can enforce; instead, legislators have already put these provisions on the books, and they just need a stronger enforcement commitment. The first provision, Conn. Gen. Stat. § 31-69, penalizes the non-payment of minimum wages. The second, § 31-71g, penalizes the non-payment of wages when promised. The third, § 53a-119, applies to the "theft of services" (see discussion about the Austin, Texas, approach below); unlike the first two, the theft of services provision is not found not in the state wage and hour code but rather in the state penal code. The wage provisions have received recent legislative support. For example, the state legislature in 1997 doubled all minimum and maximum fine limits for § 31-69.

Though those are the most clearly relevant Connecticut criminal provisions, additional provisions could provide further criminal liability, depending on the claim (see Appendix A for more detail). For example, § 31-4, passed in 2001 by a vote of 32 to 3, requires the state Commission of Labor to produce outreach materials to immigrant workers explaining their workplace rights in their own languages; § 31-12 penalizes violations of regulations regarding hours of labor of minor, elderly, and handicapped persons in manufacturing or mechanical establishments; § 31-15 penalizes the nighttime work of minors; and § 31-73 penalizes the unfair deductions from workers' paychecks.⁷⁰

B. Models for New Haven

A few communities nationwide recently have looked into the police enforcement tactic, but the Central Texas Immigrant Worker Rights Center (CTIWRC) in Austin, Texas, developed the model program to which the rest refer. The Center's organizers worked with the Austin Police Department (APD) and the Travis County Attorney (TCA) to enforce the Texas Penal Code "theft of services" criminal provision. As do 32 other states, Texas has a penalty for "theft of services." Such theft occurs when someone agrees to compensate another for a service and, "after the service is rendered, fails to make payment after receiving notice demanding payment." The Austin advocates' success in getting "services" interpreted to include "wages" meant that the Texas statute penalizes not only those who walk out on a restaurant bill or jump out of a cab without paying, for example, but also those who fail to pay wages to day laborers and other immigrant workers.⁷¹

According to a recent study, the following elements are required for a successful theft-of-services program: 1) an applicable state or municipal law; 2) relationships with local police and prosecutors; 3) a formal agreement, policy, or law establishing that police will not enforce immigration laws, such as those against undocumented workers; 4) a formal procedure for the police and prosecutors who handle these cases; 5) and a well-formulated system for coordinating the

management of the complaint and follow-up process. Austin met all of these requirements. CTIWorc, APD, and TCA developed a Standard Operating Procedure that now applies to all APD personnel (see Appendix C). Furthermore, as required by the statute, the task force and APD developed criteria that can prove employers' "intent not to pay" wages: two or more failures to pay, not showing up on payday, using bad checks, and so on. The task force also developed standards for investigating and filing charges.

The Austin program has had some real successes. Since August 2002 about 350 workers have reported wage abuses to CTIWorc. About 48 of those were taken through the theft of wages process, with a theft demand letter sent. About 20 of those complaints were resolved through negotiation before arrest warrants were filed; about 10 went dormant or arrest warrants were never filed because the worker left or did not continue with the case. To date, 13 employers have been arrested, and 5 arrest warrants are pending.⁷²

The wage payment/police enforcement effort has gone beyond Austin. Workers' rights advocates in Denver, Colorado, currently are working with the local county attorneys and police department to develop a similar program. They are basing their work on a provision in the wage and hour code, not in the penal code, because Colorado does not have a "theft of service" statute. Colorado's Wage Act, which the state Department of Labor typically enforces, contains a criminal provision for nonpayment with both a fine and a short jail sentence.⁷³ Kansas City, Missouri, followed a different path, passing its own city ordinance that allows police officers to pursue employers who do not pay the required wages.

Although organizers in Phoenix, Arizona, seemed to have partial success with a theft of services program, as did those in San Francisco, California, both serve as cautionary tales.⁷⁴ Neither group received a formal commitment to enforcing the provision from the local police department, and the police departments seem to have stepped back from their oral agreements. The lesson learned is the importance of establishing formal procedures and guidelines for the police department to follow.

C. Advantages

As mentioned above, the police enforcement of wage-related state criminal provisions is appealing for both efficiency and deterrence reasons. Advocates also mention, as justification, that 1) by taking the police enforcement route, workers do not need to rely on the state Department of Labor process; 2) federal labor laws (in particular the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, or FLSA) do not cover all workers because of business size and interstate requirements; 3) this strategy shifts the costs of enforcement from the working poor to local law enforcement departments; 4) this approach goes directly to a major source of the problem (the employer); and 5) this approach has other ripple effects, such as improved community relations with the local police.

On that last point, Julien Ross, a major force behind the current Austin program, said that the Austin police have not bought in across the board, and that the program probably would crumble without CTIWorc's support. Somewhat in contrast, the Austin Police Department's Assistant Chief Rudy Landeros said that the police officers were generally behind the program—in part because it is mandated. He called the program effective, citing the nonpayment of wages as "an epidemic." Landeros also noted that the police do not distinguish between legal and non-legal residents in their wage enforcement efforts: "This is one of things we try to do, trying to gain the trust of this community. They are here illegally, so first thing they think of is being deported, of the INS, so we have to gain their trust—tell them 'look, our job not to arrest and detail you based on your immigrant status.' We want to get to the point where illegal citizens feel comfortable."⁷⁵

D. Disadvantages

This approach must be implemented carefully to avoid foreseeable pitfalls. To begin with, a police enforcement program requires significant time and resources from the community. It would require that the supporting organization, such as JUNTA in New Haven, provide staff able to do the necessary follow-through work, from doing worker intake to steering the worker through the police

process and making sure that the police were pursuing the case. In effect, such a program requires caseworkers who serve as liaisons between the workers, police, and prosecutors (see Appendix B for a flowchart of this process produced by CTIWorc).

When asked whether the theft of wages program was worth the resources that CTIWorc and other allies put into it, Ross said they are still figuring out the answer, but he would say “yes.” The work required of the Center staff depends on the case, but the police enforcement approach requires less investment than most other legal remedies.⁷⁶ If the advocates do a better job of training the law enforcement and county prosecuting team and victim coordinators, Ross noted, it would lessen the management work, and workers could be trained to do follow-up steps.

Disadvantages of the “theft of service” provision in comparison with using criminal provisions in the wage and hour code include that the amount recovered might be less, as the wage and labor code often provides for statutory liquidated damages (such as double damages under FLSA and Connecticut wage-and-hour law), and the theft of services penalty does not capture partial or sub-minimal wages. Moreover, the “theft of service” language in Connecticut was not written for specifically for wages (though it can be interpreted in that way) but rather for situations like walking out on a restaurant bill. Trying to fit that language into a wage scenario was a challenge in Texas, though surmountable. It is easier to pressure government enforcement arms to do what is on the books already. For example, the civil Texas Payday Law contains a criminal provision that the Austin advocates are now considering using in addition to the theft of services provision. On the other hand, penalizing theft is something that the police are accustomed to doing.

Finally, police are not accustomed to enforcing workers’ rights, and the state Department of Labor’s duties overlap with those of the police in terms of enforcement. It is possible in some situations that workers would need to exhaust administrative remedies before going to the police. The wage code certainly grants to the Department of Labor Commissioner the subpoena power to acquire the necessary information for a criminal case and then to seek redress through the Connecticut Attorney General, for example, but there does not seem to be a bar to getting the police involved.⁷⁷

E. Recommendations

If community groups such as JUNTA have enough resources to support a wage enforcement program, subsequent steps will involve coordination with the mayor, police department, prosecutors, and the Connecticut Department of Labor counsel.

The focus could be on enforcing one of the provisions—say, the theft of service provision—or two or more of them. One provision might be more difficult to pursue than the other. Whatever strategy is used, this overall approach promises to offer concrete results for the hardworking New Haven residents whose wages due to them by law are being withheld from them and their families.

**PROPOSAL 5:
IMPROVING CRIME REPORTING AND POLICE RELATIONS
WITH THE NEW HAVEN LATINO COMMUNITY**

The New Haven Police Department is faced with the challenge of protecting and serving a large and growing Latino population. Many in this population are fearful of or unfamiliar with police, so crimes against them go unreported.

This study provides a brief overview of initiatives that police departments throughout the country have taken to better serve Latino communities, thus improving community relations and crime reporting and reducing the levels of crime. No single right method exists for achieving this goal. Numerous actions and programs differing in complexity and size have been established, with the overwhelming majority reporting positive results. What is clear is that the more information, thought, and planning that is put into the creation or augmentation of a program, the more successful it is likely to be. Before moving forward there must be commitment from those who will likely be involved, funding for potential mandates, and planning for continued efforts.

In order to carry out its mandate effectively, the New Haven Police Department must respond and adapt to the growing Latino population. If properly tapped into, this community could be an invaluable for reporting, preventing, and stopping crimes. Many Latino immigrants left their country to escape the violence and unaccountability of police officials; this background is a great liability in preventing relations between the people and the police, as well as an asset in promoting the shared goal of securing peace in their new homes.

Police departments that have instituted best practice multi-faceted programs include those in Charlotte-Mecklenburg, North Carolina; Las Vegas, Nevada; and Clearwater, Florida (*see* Appendix). One of the most effective initiatives is the first listed below: the establishment of a team of officers focused on working with issues related to the Latino community. This allows for services to be better targeted to meet the community's needs and to accomplish more efficiently the duties required of the officers. Allocating a person or team to concentrate on Latino matters has increased crime reporting, increased accessibility of services, expanded or created information flows, and made response and information collection more efficient.

One central issue to address before implementing any new initiatives is that some members of the Latino population may be particularly fearful of working with the police due to their immigration status. Before increasing or adjusting any access or services available to the Latino community, they must be informed of the potential impact, if any, that becoming involved with the police, such as by reporting a crime or making a witness statement, may have on their immigration status. If undocumented residents are informed that they can safely participate in certain complaint procedures or services, they are much more likely to do so. If increased interaction could have a negative impact on undocumented residents, they must be made aware of that fact.

The following sections provide a survey of initiatives established by police departments across the United States. Each initiative could be reproduced in New Haven, depending on the needs, resources, and ability of the police department and the area Latino community. It is important to note that the present study does not take into account any initiatives already undertaken by the New Haven Police Department. As this conversation progresses, more information could be provided to tailor the suggested programs or positions to New Haven's special requirements.

A. Officer Positions and Programs

i. Officer Teams Devoted to Latino/Immigrant Matters

Police Departments: Las Vegas, NV (H.A.R.T.); Charlotte, NC (International Relations Unit); Durham, NC (HOIST)

General Information:

Program 1: Las Vegas, NV (Hispanic American Resource Team, or H.A.R.T.)

H.A.R.T.'s goals include establishing mutual understanding and respect and reducing crime, victimization, and fear of police, particularly among undocumented Hispanic community members. H.A.R.T. consists of a team of officers fluent in both Spanish and English and from various cultural backgrounds. Team members include two sergeants and six officers who work full-time with H.A.R.T. and are also on call if needed by other units in the department. Team members manage all programs and services related to the Hispanic community. In addition, they frequently coordinate with other investigative units when criminal activities impact the Spanish-speaking community, as well as working with the Spanish-speaking media in order to keep the Hispanic community informed of issues of particular importance to their communities.

H.A.R.T. members also assist community members in matters that extend beyond just departmental business. For example, team members network with other agencies and are often called in to translate or provide information regarding landlord-tenant disputes. In this capacity, and others like it, they frequently serve as general community ombudsmen, as facilitating interagency cooperation has always been a goal of the H.A.R.T. program.⁷⁸

Program 2: Charlotte, NC (International Relations Unit, or IRU)

The IRU has implemented a Latino Robbery Initiative (*see below*). The Unit distributes crime prevention pamphlets and videos in Spanish, coordinates a Spanish volunteer program, and has worked with the Mexican Consulate on identifying issues of concern.⁷⁹ The department has provided an extremely comprehensive and useful practices manual concerning law enforcement services for an international community.

Program 3: Durham, NC (Hispanic Outreach and Intervention Strategy Team, or HOIST)

HOIST assists the police department with investigations, interviews, and victim assistance with Spanish-speaking residents. The team maintains an office at the Criminal Investigations Division of the Durham Police Department and shares an office with victim services in a building situated between the Hispanic credit union and Latino-Hispanic Center. In addition to HOIST, the mayor recently announced the creation of the "Latino Initiative," a proactive strategy in which four bilingual officers will be assigned to various neighborhoods throughout the city.⁸⁰

ii. Hispanic Outreach Community Advocate

Police Dept: Des Moines, IA

General Information: The advocate is a full-time sworn senior-level officer who is both bilingual and bicultural and whose time is devoted exclusively to meeting the needs of the Hispanic community. The officer travels in a police vehicle that is clearly marked "Hispanic Outreach XXX Police Department," and also lists the officer's cell phone number. In addition to answering calls for service, the resource advocate is involved in outreach to the Hispanic community via schools, churches, and neighborhood associations and works closely with various social service agencies in order to help address community needs.⁸¹

iii. Latino Robbery Initiative

Police Dept: Charlotte, NC

General Information: Focuses on decreasing victimization of Latinos, addressing environmental crime factors in apartment complexes, and promoting bank programs among the Latino community.⁸²

iv. Bilingual detective for Witness Program

Police Dept: Phoenix, AZ

General Information: The greatest challenge, according to the newly appointed liaison, is convincing members of the Hispanic community to contact the police if they have information about a homicide. In light of the treatment by police in their native countries, concerns about immigration status, and the general unfamiliarity with U.S. police, many Hispanics are hesitant to come forward. In addition to the primary detective duties, the liaison officer is actively involved in attending community block watch meetings and informing the Hispanic community of the new position.⁸³

B. Civilian Positions and Programs

i. Civilian Translators

Police Dept: San Diego, CA; Clearwater, FL

General Information: Spanish speakers from the community, potentially trained in police procedures, assist officers in interviews with suspects/witnesses/victims and other needed areas.

ii. Community Liaison Officers (CLOs)

Police Dept: St. Paul, MN (Community Outreach Program)

General Information: CLOs are paid entry-level police positions for bilingual students attending school with plans to become police officers. They provide support services that include helping residents who come into the department needing assistance and answering the approximately 20 Spanish calls received daily. CLOs also ride with uniformed officers and respond to incidents when translation assistance is needed. Because CLOs can later apply to become police officers, the program is considered a valuable recruitment tool for youth in the Latino community.

Note: In St. Paul, this program is part of the Community Outreach Program (ACOP), an initiative that focuses on drug elimination and prevention, community relations, and providing police services to public housing residents, 60% of whom are Hmong. Primarily funded by the U.S. Department of Housing and Urban Development's Public Housing Drug Elimination Program (PHDEP), ACOP is staffed with 2 sergeants, 11 officers and 3 Community Liaison Officers (CLOs) and is housed in a dwelling unit in one of the family sites. Resident volunteers also staff three ACOP storefront offices in the public housing high rise sites.⁸⁴

iii. Volunteer Community Patrol Program

Police Dept: Corcoran, CA; Storm Lake, IA.

Note: An Internet search found at least 20 other Spanish-speaking police Citizens Academies in 12 states.

General Information:

Program 1 (Corcoran, CA):

Citizens in the patrol serve as extra "eyes and ears" for the department and are equipped with cell phones and identification badges. In addition, volunteer patrol members participate in a variety of community services that include collecting toys and clothing for children and "adopting" families in need during the holidays. Due to the cooperative relationship developed between the police department and its Hispanic residents, citizen-initiated calls to the PD have increased.⁸⁵

Program 2 (Storm Lake, IA): Community Service Officer (CSO) Program

Civilians were hired to write parking tickets and handle motorist assists and other non-emergency types of calls, thereby freeing up officer time. The CSOs wear uniforms and

bullet-proof vests, carry pepper mace and radios, and operate marked vans that are equipped with emergency lights.⁸⁶

iv. Spanish-language Police Academy

Police Dept: Corcoran, CA; Green Bay, WI

Information: General: The material for the academy was translated from the English-speaking citizens academy curriculum and then tailored to meet the needs of the Hispanic community. Since the academy's inception, many graduates of the class have continued their involvement with the police department through a volunteer community patrol program.⁸⁷ *See Volunteer Community Patrol Program.* Teenage Program: Academy goals include familiarizing Latino youth with the American legal system and helping to dispel the mistrust of police officers that many immigrant youth have based on negative experiences with law enforcement in their country of origin, as well as encouraging academy graduates to consider employment with the police department in the future.⁸⁸

C. Administrative Actions

i. Signage

General Information: All public signs in the police department are in English and Spanish, as well as any other significant minority language.

ii. Police Station Visit Programs, geared for Latinos

Police Dept: Las Vegas, NV ("Mi Casa, Tu Casa")

General Information: Invite Spanish-speaking residents to visit police stations, on the same day each month.

iii. Spanish Pamphlets and Information Sources

Sources translated into Spanish could include:

- Police department website
- Crime prevention pamphlets
- Explanation of the complaints process
- Information on crime reporting and relation to immigration status (if any relation, explain; if none, be clear about it).

iv. Cultural Awareness Training for Employees

Police Dept: Charlotte, NC

v. Basic Spanish Instruction for Officers

Police Dept: Charlotte, NC

vi. Police Officer Recruitment

- Appointment of Hispanic Recruitment Office
- Police Academies (Community and Teen)
- Community meetings that facilitate recruitment

D. Mayor-sponsored programs

i. Indianapolis, Indiana

The Mayor's Commission on Latino Affairs focuses on a variety of issues that include increasing Latino participation in local government, education, and race relations and improving Latino residents' access of city services. Sixteen members appointed to the Commission represent various community interests such as government, business, schools, public safety, and public health. The Commission has initiated a number of efforts such as a

Spanish-language hotline to report crime, drug and, gang activity; crime prevention programs in the Latino community; the Latino Census Task Force to focus on census outreach activities; and promotion of Latino health issues through the Indianapolis Hispanic Health Access. The Commission also has sponsored Spanish language classes for municipal employees, police, and firefighters.

While the Commission operates through the Mayor's Office, it receives much of its funding from work programs and private corporations. The Commission's executive director explains that its activities and efforts have been very effective in part because "we try and bring everyone to the table" and says that the "key for the success is that the mayor has to support this."⁸⁹

ii. Baltimore, MD

The Mayor's Hispanic Liaison Office of Baltimore participates in several ongoing initiatives to assist Hispanic residents in areas of community development, home ownership, public safety, and civic pride. For example, the Liaison office organized a community meeting with the police commissioner to address crime issues and police relations. Its recommendations led to the appointment of a Hispanic Recruitment Officer and a Hispanic Community Relations Officer. The result was a significant increase in the number of Hispanic police officers.

While the coordinator's position (along with an assistant) is funded through the Mayor's office, most of the funding for workshops and other community activities is donated from the private sector. In addition to an office housed in city hall, the Liaison Office maintains an outreach office in the community. Collaboration with the South East Baltimore police station and the Pentecostal Church of Evangelical Mission led to the placement of a police substation in the church enabling officers to speak to local residents and conduct foot patrol in the area.⁹⁰

PROPOSAL 6: CREATING A OFFICE OF IMMIGRANT AFFAIRS

According to the U.S. Census Bureau's most recent figures, the growth of the Latino population has been significant: between April 2000 and July 2002, there was a 9.8% growth in the Latino population nationwide. Immigrants accounted for approximately 53% of the increase.⁹¹ In New Haven, Connecticut, the Latino population increased by 9,200, or 54%, making it the third largest in the state. This statistic does not account for the dramatic number of undocumented immigrants who have moved to New Haven in the last few years. The exact number of foreign-born New Haven residents without legal status is unknown, and this blank speaks to, in part, the invisibility and level of disenfranchisement that this community faces and the gap in city services available to this population. However, our best estimates place the number of undocumented immigrants in Fair Haven alone at around 2,000-5,000.⁹²

Today Latinos account for 50.3 percent of all Fair Haven residents, making it the largest immigrant group in Fair Haven.⁹³ Yet this community continues to be disproportionately poor, have lower levels of educational attainment and is socially and economically disenfranchised. This population is also adversely affected by language and cultural barriers, discrimination, exploitation, lack of employment, immigration issues, insufficient child care facilities and poor health care. In particular, undocumented Latino immigrants are the most unprotected, invisible, and vulnerable members of this community. They are easy victims of discrimination, violence, theft, harassment, scamming and abuse.

Legal and undocumented immigrant residents alike are in need of a culturally relevant form of outreach and assistance in becoming more familiar with the city's services, programs, and opportunities. While non-profit organizations have stepped in to fill some of the most glaring gaps in services, this has not adequately met all of the existing needs, particularly those related to municipal programs and services. There are many cities throughout the U.S that have established an Office of Immigrant Affairs at the city-level to address these gaps. This proposal seeks to examine the possibility of establishing a Mayor's Office of Immigrant Affairs in New Haven, following similar models to those in many other cities. Below, a few cities with such models are outlined.

A. Other American Cities

i. Mayor's Office of Immigrant Affairs (New York City)

In New York City, the mission of the Mayor's Office of Immigrant Affairs (MOIA) is to promote "the full and active participation of immigrant New Yorkers in the civic, economic, and cultural life of the City by fostering communication and connection between City agencies and immigrant communities."⁹⁴ The MOIA focuses on providing information to immigrants and agencies in the areas of employment and labor laws, public benefits, public school system, housing, and small business services. This office is also in charge of overseeing Local Law 73: Language Access Implementation, to be implemented into various agencies, including the Human Resources Administration, the Department of Mental Health and Hygiene and the Administration for Children's Services. Headed by Commissioner Guillermo Linares, the MOIA seeks to increase utilization of City services by immigrants, as well as to be a resource in providing advice on legislative and policy issues affecting immigrant communities.

ii. Mayor's Office of New Bostonians (Boston)

In Boston, M.A., the Mayor's Office of New Bostonians partners with various city agencies and community organizations to provide successful initiatives that address four key issues: lack of affordable housing, lack of ESOL classes, and other issues related to discrimination of immigrants. The office's work since its inception in 1999 has included establishing a city-wide ESOL course system ("English for New Bostonians"), extending its immigration clinics to predominantly immigrant neighborhoods, and improving its public education strategies by

strengthening ties to the ethnic media. It holds a yearly “New Bostonians Community Day” as one of its many outreach strategies and provides information and referral services to connect immigrants to community resources. Most notably, it also publishes a guide to City services and a directory of community resources to afford more accessibility to these services to immigrants.⁹⁵

iii. The Welcoming Center for New Pennsylvanians (Philadelphia)

The Welcoming Center for New Pennsylvanians was recently founded in 2002 to “facilitate the regional economic development” of the region by “attracting and retaining immigrants to the Philadelphia area including foreign-born students, immigrant professionals, and immigrant workers who possess the skills required by regional businesses and industries.”⁹⁶ The Center was created after a report by the Philadelphia Area Immigration Resource Center that showed studies of Philadelphia as an “immigrant-unfriendly city.” It recognized the importance of welcoming immigrants to the city as part of greater context of competing economically at a global level. This office focuses on providing referral services to service providers, employment and housing information, and links to ESOL courses. Although this office follows the similar model developed by Boston, the emphasis of the Welcoming Center is to provide services and programs that will ultimately promote economic stability in Philadelphia.⁹⁷

B. Looking Ahead in New Haven

Establishing a Mayor’s Office of Immigrant Affairs in New Haven would provide an avenue with which to shape the integration of immigrants to civic life and their participation in the economic, social and cultural spheres. The purpose of the Office of Immigrant Affairs would be to advocate for the advancement of immigrant community members as defined as any person who lives, works or owns property in the City of New Haven, or who actively participates in a non-profit organization, religious or educational institution.⁹⁸ A comprehensive vision of such an office would serve the community in the following aspects:

i. Access

Immigrants often report having trouble using services or programs provided by the City agencies due to language, cultural, and legal barriers. This office would work with City agencies to facilitate access for immigrants to City services, and to comply with appropriate cultural and linguistic standards for the full inclusion of immigrants to these services, including but not limited to translation of public documents, provision or facilitation of interpretive services, posting of multilingual signs, etc.

ii. Outreach

This office would work in collaboration with community-based organizations and other City agencies to engage in outreach efforts to the immigrant communities and create awareness and understanding of programs and services that they can access.

iii. Communication and Information

A key component of this office would be to facilitate communication and participation between immigrant residents, community organizations representing immigrant constituencies, and the Mayor and other City officials on immigration issues relevant to New Haven residents. The Office on Immigrant Affairs could provide information services to immigrants on applying for legal residency at the Bureau of Citizenship, as well as referral services to other community based organizations. This office could also provide expertise and advice to the Mayor, City agencies, public officials and the general public about policies affecting immigrant residents.

iv. Advocacy

This office could take an active role in advocating for, and supporting community groups effort in, the development of inclusive public policy for the advancement of immigrant

residents. This office should also engage in individual resident advocacy at government agencies.

C. Implementation and Coordination

The Office of Immigrant Affairs would fall under the direction of a Coordinator with the assistance of City interns and volunteers. The Coordinator's background should reflect extensive experience working in and knowledge of New Haven's immigrant populations. The ideal candidate would also represent the cultural and linguistic background of New Haven's Latino immigrant community. The position's main responsibilities would be to oversee the management and development of the program areas, and to communicate directly with the Mayor and community-based organizations representing the immigrant communities. The importance of the creation of this position cannot be understated; the City of New Haven's move towards an Office of Immigrant Affairs with the design of a Coordinator position would centralize support and assistance that Latino immigrants critically need to become fully inculcated members of the larger New Haven community.

CONCLUSION

This document describes several exciting opportunities for New Haven to improve its relations with resident immigrants and to improve their quality of life as key stakeholders in this city. These proposals can succeed individually, if the city decides to develop them one by one. But they also would work together synergistically, each improving the effectiveness of the other.

APPENDIX A: APPLICABLE CONNECTICUT LAW

The most obvious provisions to be enforced are Conn. Gen. Stat. (C.G.S.) §§ 31-69, 31-71g, and 53a-119, in bold and underlined below⁹⁹

Chapter 556: LABOR DEPARTMENT

- C.G.S. § 31-4: Connecticut Act to Prohibit the Employment Exploitation of Immigrant Labor¹⁰⁰
 - “Any person who obtains or receives money due immigrant laborers or laborers who lack proficiency in the English language and retains any part thereof for such person's own use without giving adequate consideration therefor shall be fined not more than one hundred dollars or imprisoned not more than one year or both.”

Chapter 557: PART I: HOURS OF LABOR

- C.G.S. § 31-12: Hours of labor of minor, elderly, and handicapped persons in manufacturing or mechanical establishments
 - Such persons can work no more than 9 hours per day or 48 hours per week (with slight extensions for emergency or seasonal or peak demand) and no more than 12 weeks per year. The statute provides regulations for working during school weeks. “[A]ny person who . . . violates any of the provisions of this section shall be fined not more than twenty-five dollars for the first offense and be fined not more than one hundred dollars or imprisoned not more than thirty days or both for any subsequent offense.”
- C.G.S. § 31-14: Night work of minors regulated
- C.G.S. § 31-15: Penalty (for § 31-14)
 - Fined no more than \$50 for first, \$200 or imprisoned no more than thirty days for subsequent offense.

Chapter 558: WAGES: PART I: MINIMUM WAGES

- **C.G.S. § 31-69: Penalty**¹⁰¹
 - a) If employer discharges or discriminates because of any proceeding under this part, fined \$100–\$400.
 - (b) Any employer or the officer or agent of any corporation who pays or agrees to pay to any employee less than the rates applicable to such employee under the provisions of this part or a minimum fair wage order shall be: (1) Fined not less than \$4,000 nor more than \$10,000 or imprisoned not more than 5 years or both for each offense if the total amount of all unpaid wages owed to an employee is more than \$2,000; (2) fined not less than \$2,000 nor more than \$4,000 or imprisoned not more than 1 year or both for each offense if the total amount of all unpaid wages owed to an employee is \$1,000–\$2,000; (3) fined \$1,000–\$2,000 or imprisoned not more than 6 months or both for each offense if the total amount of all unpaid wages owed to an employee is more than \$500–\$1,000; or (4) fined \$400–\$1000 or imprisoned not more than 3 months or both for each offense if the total amount of all unpaid wages owed to an employee is \$500 or less.

PART II: GENERAL PROVISIONS

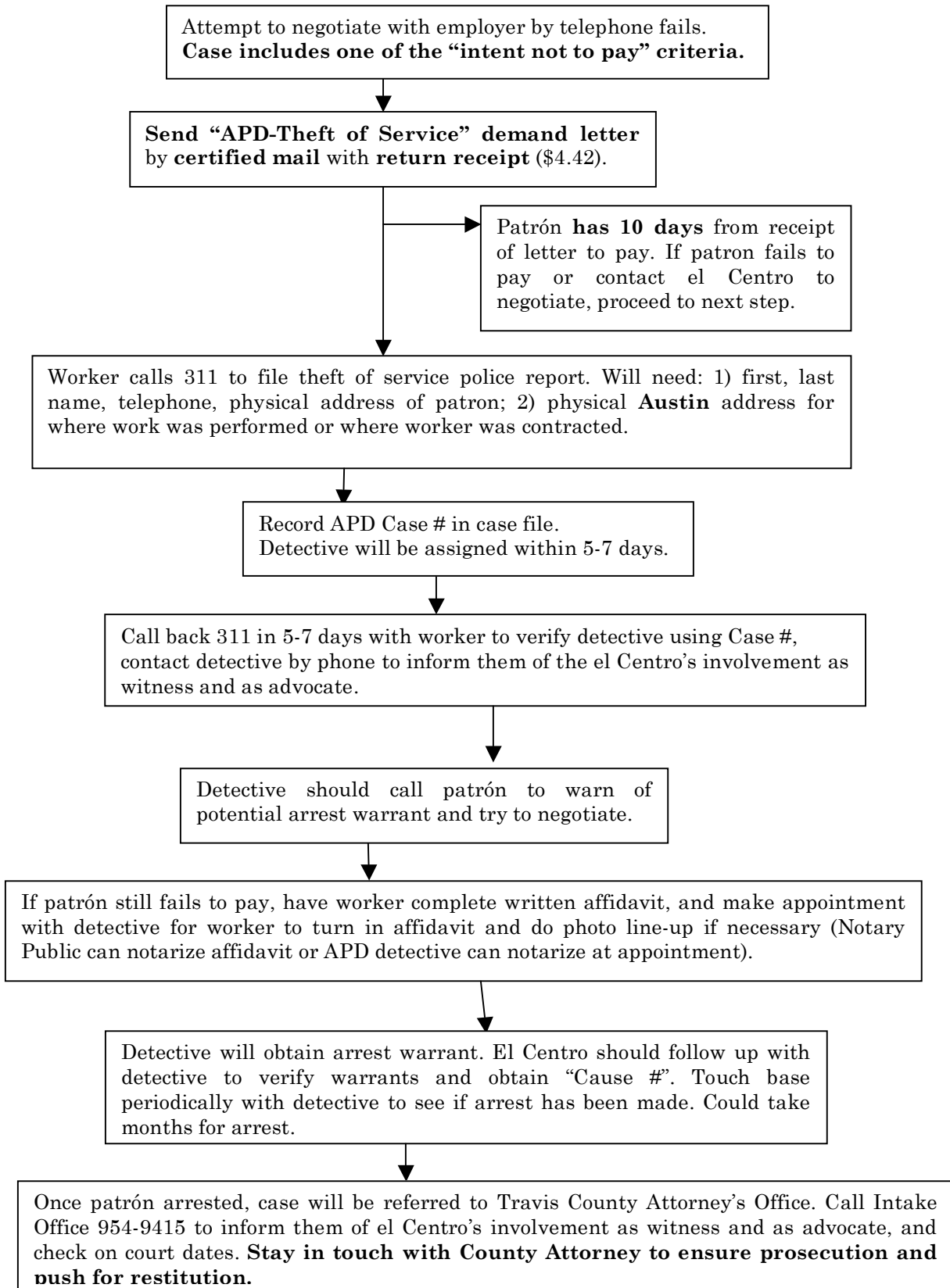
- C.G.S. § 31-71b: Weekly payment of wages
 - End of pay period for which payment made on regular pay day no more than 8 days before regular pay day. Some can bargain for other schedules.
- C.G.S. § 31-71c: Payment of wages on termination of employment
 - In full no later than next regular payday if voluntary; next business day if discharged; if labor dispute, next regular pay day.
- C.G.S. § 31-71d: Payment where wages disputed
 - Only needs to pay amount conceded to be due; employee has remedies; acceptance of payment not a release of balance.
- **C.G.S. § 31-71g: Penalty**¹⁰²

- Any employer or any officer or agent of an employer or any other person authorized by an employer to pay wages who violates any provision of this part may be: (1) Fined \$2,000–\$5,000 or imprisoned not more than 5 years or both for each offense if the total amount of all unpaid wages owed to an employee is more than \$2,000; (2) fined \$1,000–\$2,000 or imprisoned not more than 1 year or both for each offense if the total amount of all unpaid wages owed to an employee is \$1,000–\$2,000; (3) fined not less than \$500–\$1,000 or imprisoned not more than 6 months or both for each offense if the total amount of all unpaid wages owed to an employee is \$500–\$1,000; or (4) fined \$200–\$500 or imprisoned not more than 3 months or both for each offense if the total amount of all unpaid wages owed to an employee is \$500 or less.
- C.G.S. § 31-73: Refund of wages for furnishing employment
 - No employer, etc., shall demand, etc., any refund of wages, deduction from wages agreed upon, on understanding that such refund/deduction/etc. is necessary to continue in employment. Penalty: Fined not more than \$100 or imprisoned for more than 30 days for first offense, and for each subsequent offense, not more than \$500 or 6 months imprisonment or both.

PENAL CODE

- **C.G.S. § 53a-119: Larceny defined**
 - (7) Theft of services.¹⁰³ “A person is guilty of theft of services when (A) With intent to avoid payment for restaurant services rendered, or for services rendered to him as a transient guest at a hotel, motel, inn, tourist cabin, rooming house or comparable establishment” [comparable to Texas one]; . . . (C) obtaining or having control over labor in the employ of another person, or of business, commercial or industrial equipment or facilities of another person, knowing that he is not entitled to use thereof, and with intent to derive a commercial or other substantial benefit for himself or a third person, he uses or diverts to the use of himself or a third person such labor, equipment or facilities.”¹⁰⁴

**APPENDIX B:
FLOW CHART FOR TYPICAL AUSTIN PD THEFT OF SERVICE CASE**



Appendix C:
General Order of the Austin Police Department

AUSTIN POLICE DEPARTMENT

**Juan J.
Gonzalez**



**715 East 8th Street
Austin, Texas 78701-
3397
(512) 974-5724**

October 29, 2003

To Whom It May Concern:

The Austin Police Department is committed to thoroughly investigating all instances whereby an employer does not compensate an employee for services performed. If necessary, charges will be filed against an employer who does not reimburse an employee for services rendered.

According to the Texas Penal Code (Chapter 31.04, Theft of Service),

A person commits an offense if, with intent to avoid payment of service that he knows is provided only for compensation:

(4) He intentionally or knowingly secures the performance of the service by agreeing to provide compensation and, after the service is rendered, fails to make payment after receiving notice demanding payment.

For purposes of this section, intent to avoid payment is presumed if:

(1) the actor absconded without paying for the service or expressly refused to pay for the service in circumstances where payment is ordinarily made immediately upon rendering of the service, as in hotels, campgrounds, recreational parks, restaurants, and comparable establishments.”

If you have any questions regarding laws pertaining to theft of service, you may contact me at 974-5724.

Sincerely,

**Juan J. Gonzalez
Commander, Austin Police Department**

**APPENDIX D:
THREE EXAMPLES OF POLICE DEPARTMENT UNITS
SERVING THE LATINO COMMUNITY**

Example 1: H.A.R.T. (Hispanic American Resource Team)



The *Las Vegas Metropolitan Police Department* has established H.A.R.T. in response to an enormous rise in our community's Spanish-speaking population. Hispanics now number the largest minority group in the LVMPD's jurisdiction but exact numbers are unknown because of a large population of undocumented Hispanics in the area. The U.S. Census Bureau put the Las Vegas metropolitan area's Hispanic population at 219,075 for 1999, and has estimated another 75,000 to 125,000 undocumented residents, which represents about 30 percent of the community. This increasing population base also brings an increasing need to provide police services to a culturally diverse community.

The challenges faced by the LVMPD are:

- How to best serve the needs of a large segment of our community who do not speak English.
- How to protect and serve the large portion of our population who are so fearful of police that many crimes committed against them go unreported, which is what officers have found with a large number of the local undocumented Spanish-speaking persons.

H.A.R.T.'s mission statement is:

To encourage interaction between Department members and the people of different cultures within the Hispanic community, leading to mutual understanding and respect. To build and maintain positive relationships between the Hispanic community and the police through compassion and innovative thinking. As with many of the LVMPD's community policing efforts, H.A.R.T. has fostered a partnership with local businesses and civic organizations in support of the program.

H.A.R.T. consists of a team of Spanish-speaking officers who are fluent in both Spanish and English (speaking, reading and writing). They currently work out of the Downtown Area Command and provide five-day-a-week coverage.

Officers' responsibilities include:

- To conduct preliminary field investigations of criminal activities that impact the undocumented Spanish-speaking community.
- To conduct follow-up investigations when appropriate and to coordinate with other investigative units as events dictate.
- To develop and implement educational programs designed to foster working partnerships with this segment of the community.
- To assess and recognize crime trends and develop methods to combat these issues as they relate to this portion of the Hispanic community.
- To train other LVMPD officers in issues related to the experiences of policing this segment of the population.

Source: http://www.lvmpd.com/Programs/HART_Team.html

Example 2: International Relations Unit

[Departments](#) / [Police](#) / [Crime Info](#) / International Relations

International Relations Unit

In the fall of 2000, *Charlotte-Mecklenburg Police Department*, in its efforts to enhance relations with the International community and to address their unique needs, created a new Unit. The Unit would not only address the challenges of communication but also assist in understanding cultural differences. In December of 2000, the International Relations Unit (IRU) was formed.



The International Relations Unit

The IRU is composed of six (6) full-time Officers and one (1) Sergeant. The unit is made up of individuals that have either a fluency in a second language and or an understanding of a second culture. Currently, the IRU is composed of members that speak the following foreign languages: Spanish, Vietnamese, Laotian and Thai. The primary responsibility of the IRU is to act as the Charlotte-Mecklenburg Police Department's liaison when dealing with issues associated with the International community. These officers will take on community problems and facilitate with communication to improve understanding between police and members of the International community. The ultimate goal of the unit and the police department is to enhance the quality of life within the International community throughout Charlotte-Mecklenburg.

Mission Statement

The International Relations Unit of the Charlotte-Mecklenburg Police Department is a countywide resource committed to improving the quality of life, reducing crime, and fostering mutual trust and respect with members of the International community.

Unit Priorities

- To assist the International Community, Patrol Officers and Police Detectives with finding solutions to problems and concerns.
- Conduct training with the International community and Public/Private organizations to improve service and reduce the number of victims.
- Conduct language and cultural awareness training within the Police Department
- Provide assistance with Police investigations that affect the International community.
- Use specialized training, expertise, and experience to improve relationships with the International community.

- Use specialized training, expertise, and experience to improve relationships with the International community.
- Participate in community events that directly affect the International community.
- To assist with the recruitment of culturally diverse and bilingual officers
- Act as a liaison between the Police Department and the International community

Source:

<http://www.charmeck.org/Departments/Police/Crime+Info/International+Relations/Home.htm>

Example 3: Clearwater Police Department

The **Clearwater Police Department** has launched a community policing program to reach out to the city's growing Hispanic population that is designed to serve as a model for law enforcement agencies nationwide.

Today Hispanic residents in Clearwater are an underserved population because of language barriers and cultural perceptions that keep some Hispanics from joining the mainstream. This new program will reach out to our Hispanic neighbors and bridge the gap in communicating with our Spanish speaking population, seek ways to positively resolve law enforcement issues, and increase the number of bi-lingual police officers and staff. The department has produced a 30-minute video titled *Joining Hands: Operation Apoyo Hispano* describing our Hispanic Outreach initiative. This video is available to law enforcement agencies by contacting the [Regional Community Policing Institute](#) at St. Petersburg Junior College.



Officer Billy Farias speaks with Hispanic citizen.

Among the major partners committed to the Hispanic Outreach effort are the U.S. Department of Justice [Executive Office for Weed and Seed](#), [Regional Community Policing Institute](#) at St. Petersburg Junior College, the [U.S. Attorney's Office for the Middle District of Florida](#), the [Bureau of Justice Assistance](#) and the [YWCA of Tampa Bay](#), and the [Pinellas County Schools](#) Adult Education Center. The police department expects to partner with other organizations, businesses, and groups as the program is implemented over the next year. The Hispanic initiative is a comprehensive and multi-faceted program that eventually will encompass everything from crime to economic opportunity to social issues. Among its key components are the creation of a interpretation program consisting of bi-lingual officers and citizen interpreters to assist officers at crime scenes, incidents and accidents, the recruitment of bi-lingual officers, a victim advocacy outreach program, and a domestic violence component specifically for non-English speaking Hispanic residents and families.

The Clearwater police department will create a mobile outreach program that will include a specially equipped multi-purpose bus to bring the police to Hispanic neighborhoods. As part of its Spanish public information program, the department will present Spanish language programs on community policing and crime prevention, drug and alcohol education, and present information on social services and job information in Spanish. It will also create a Spanish language segment on its monthly cable television show [Blueline CPD](#). As an adjunct of its existing computer learning labs and community centers, the department plans to partner with the Pinellas County Schools Adult Education Center and other social service agencies to will offer [English For Speakers of Other Languages](#) (ESOL) classes, computer training, and GED instruction, and job training.

Hispanics are the fastest growing minority population in Clearwater. It's estimated there are 8,000 to 15,000 Hispanic residents in Clearwater or up to 15% of the population. It is expected that the Hispanic population will become an even bigger economic force in the future and to contribute to Clearwater's attractiveness as a diverse cultural environment.

Officer Billy Farias has been appointed as the Hispanic Outreach Officer of the department and is responsible for organizing and implementing the program. Organizations, businesses, and individuals who would like to participate or want further information, can email wfarias@clearwaterpolice.org or call (727) 562-4147. For information in Spanish on other city services, call (727) 562-4252.

Source: <http://www.clearwaterpolice.org/hispanic/index.asp>

NOTES

¹ http://www.law.yale.edu/outside/html/Legal_Services/lso-index.htm

² *Id.*

³ See <http://www.juntainc.org>.

⁴ Weed & Seed Data Center, Fair Haven Demographics, August 14, 2002.

⁵ The numbers increase in the summer, when seasonal workers arrive in New Haven to work in farms in surrounding towns.

⁶ The seventh initiative, which was presented orally at a meeting in the Spring with the mayor and several of his staff, was for City Hall to translate its documents into Spanish, and to have bilingual translators available to Spanish speakers.

⁷ An earlier version of this report was presented to Mayor DeStefano and his staff at the March meeting.

⁸ Vasquez, Daniel, "Latinos in New Haven, Connecticut," Mauricio Gaston Institute for Latino Community Development and Public Policy, University of Massachusetts, March 2003, available at http://www.gaston.umb.edu/resactiv/census/ct/new_haven.pdf.

⁹ <http://quickfacts.census.gov/qfd/states/09000.html>.

¹⁰ See, e.g., Robert C. Davis et al., "Access to Justice for Immigrants Who Are Victimized: The Perspectives of Police and Prosecutors," 12 Criminal Justice Policy Review 183, 186 (2001).

¹¹ See, e.g., Center for Urban Economic Development, University of Illinois at Chicago, "Chicago's Undocumented Immigrants: An Analysis of Wages, Working Conditions, and Economic Contributions" (2002).

¹² "A Report to Congress in Accordance with Section 326(b) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001" (submitted by the Department of the Treasury October 21, 2002), available at

<http://www.treas.gov/press/releases/reports/sec326breport.final.pdf> (last visited March 2, 2005) [hereinafter 2002 Treasury Report].

¹³ Conn. Gen. Stat. Ann. § 36a-306 (2004).

¹⁴ Sheila C. Bair, "Multilateral Investment Fund, Improving Access to the U.S. Banking System Among Recent Latin American Immigrants" 10 (2003), available at <http://www.cbanet.org/Issues/documents/Unbanked.pdf> (last accessed Feb. 27, 2005).

¹⁵ Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, Section 326 (2001) [hereinafter USA PATRIOT Act].

¹⁶ *Id.*

¹⁷ USA PATRIOT Act, above.

¹⁸ 2002 Treasury Report, above, at 18.

¹⁹ *Id.* at 16.

²⁰ *Id.* at 19.

²¹ Press Release, U.S. Dep't of the Treasury, "Fact Sheet: Results of the Notice of Inquiry on Final Regulations Implementing Customer Identity Verification Requirements Under Section 326 of the USA PATRIOT Act" (September 18, 2003), available at <http://www.treas.gov/press/releases/reports/js7432.doc>, cited in Michael S. Barr, "Banking the Poor," 21 Yale J. Reg. 121, 184 n. 300 (2004).

²² 2002 Treasury Report, above, at 19.

²³ *Id.* at 14.

²⁴ Conn. Gen. Stat. Ann. § 36a-306 (2004).

²⁵ See *id.*, § 1-1h (2005).

²⁶ Bair, above, at 12.

²⁷ *Id.* at 14.

²⁸ *Id.* at 12.

²⁹ *Id.* at 13.

³⁰ See, e.g., C.G.S.A. § 7-148(c)(4)(A) (conferring power to do "all . . . things necessary or desirable for the policing of the municipality"); *id.* § 7-148(c)(H)(xi) (conferring power to "[p]rovide for the health of the inhabitants of the municipality and do all things necessary or desirable to secure and promote the public health"); *id.* § 7-148(c)(H)(xiii) (conferring power to "[m]ake and enforce police, sanitary or other similar regulations and protect or promote the peace, safety, good government and welfare of the municipality and its inhabitants"); *id.* § 7-148(c)(10)(A) (conferring power to "[m]ake all lawful regulations and ordinances in furtherance of any general powers as enumerated in this section").

³¹ C.G.S. § 1-1h.

³² Connecticut regulations forbid issuance of a motor vehicle operator's license or state identification card to a non-citizen unless the non-citizen can demonstrate lawful immigration status. Conn. Agencies Regs. § 14-137-64a(a), (b).

³³ C.G.S. § 16-49e, emphasis added.

³⁴ Conversation, Dora Hill, Department of Licenses & Inspections, March 2, 2005, and *City Sun Employee Newsletter*, available at <http://www.ci.hartford.ct.us/news/Newsletters/CitySunERCMarch.doc> (last visited March 3, 2005).

³⁵ City of Stamford, Connecticut, City Office of Public Safety and Welfare, *Government Center Building Access and Security Policy*, available at <http://www.ci.stamford.ct.us/OfficeOfPublicSafetyHealthAndWelfare/BuildingSecurity.htm> (last modified December 5 2002).

³⁶ City of Plano, Texas, *City of Plano Policies*, available at <http://www.planotx.org/hr/policies.html> (last visited March 3, 2005).

³⁷ City of Long Beach, California, Department of Human Resources, *Policies and Procedures*, available at http://cms.longbeach.gov/hr/employees/personnel_pp/pp_p.htm (last visited March 3, 2005).

³⁸ Conversation, Sy Behroozi, Library Department, National League of Cities, March 1, 2005.

³⁹ District of Columbia, Department of Motor Vehicles, Identification Services, *Obtain a Non-driver Identification Card*, available at <http://dmv.washingtondc.gov/serv/idservices/nondriverid.shtm> (last visited March 3, 2005).

⁴⁰ City of Westminster, Colorado, *Recreation ID Cards*, available at http://www.ci.westminster.co.us/res/rec/default_3323.htm (last visited March 3, 2005).

⁴¹ City of Aventura, Florida, <http://www.cityofaventura.com/commsvcs/idcards.htm#residency> (last visited March 3, 2005).

⁴² *Id.*

⁴³ Hoge, Patrick, "Medical marijuana users to get ID from state," *San Diego Union-Tribune*, February 17, 2005, available at http://www.signonsandiego.com/uniontrib/20050217/news_1n17medpot.html (last visited March 3, 2005).

⁴⁴ Huard, Ray, "Marijuana offered outside City Hall," *San Diego Union-Tribune*, September 18, 2002, available at http://www.mpp.org/DD/news_1562.html (last updated July 28, 2004).

⁴⁵ Pub. L. No. 109-13, 119 Stat. 231 (May 11, 2005).

⁴⁶ *Id.* § 202.

⁴⁷ *See id.* § 201(5) (defining "state").

⁴⁸ The Privacy Act generally limits federal agencies from exchanging information they may collect. Its protections are limited, however, to records concerning U.S. citizens and legal permanent residents; it does not apply to state or local records; and it recognize a series of exceptions for law enforcement purposes even as to those federal records to which the Act applies. 5 U.S.C. § 552a(a)(2) (limiting coverage to citizens and permanent residents); *id.* § 552a(a)(1) (incorporating definition of "agency" at 5 U.S.C. § 551(1) as federal agencies only); *id.* § 552a(b)(7) (noting law enforcement exception to general rule of non-disclosure).

⁴⁹ C.G.S.A. §§ 1-200(1)(A), (5).

⁵⁰ *Id.* § 1-210(b)(2).

⁵¹ *Id.* § 1-210(b)(3).

⁵² Connecticut law permits the subject of a record to obtain her own records so as to assure their accuracy, C.G.S.A. § 4-193, but not other persons.

⁵³ *See generally*, Muzaffar Chishti, et al., *AMERICA'S CHALLENGE: DOMESTIC SECURITY, CIVIL LIBERTIES, AND NATIONAL UNITY AFTER SEPTEMBER 11* (Migration Policy Institute: 2003).

⁵⁴ *Immigration Enforcement: Weaknesses Hinder Employment Verification and Worksite Enforcement Efforts* (U.S. GAO: August 31, 2005), at 7; *see also id.* at 6 (noting re-direction of federal immigration enforcement resources "[c]onsistent with the DHS mission to combat terrorism, after September 11, 2001").

⁵⁵ Banks do not and cannot offer account-holders any guarantee that their records will not ever be shared with federal immigration authorities.

⁵⁶ "What is an ITIN?" *available at* <http://www.irs.gov/individuals/article/0,,id=96287,00.html>.

⁵⁷ *Id.*

⁵⁸ As described in note ____, above, the federal Privacy Act protects the records only of citizens and permanent residents, so cannot prevent IRS from exchanging records about undocumented immigrants. The Internal Revenue Code's own confidentiality provision limits disclosure of tax returns and return information, 26 U.S.C. § 6103(a), but contains exemptions for a range of law enforcement activities. *Id.* § 6103(h) (tax administration investigations); *id.* § 6103(i) (criminal investigations); *id.* § 6103(l) (other law enforcement purposes).

- ⁵⁹ Ferrell, Craig, "Immigration Enforcement: Is It a Local Issue?" *Police Chief Magazine*, February 2004. Available at http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=224&issue_id=22004.
- ⁶⁰ A Freedom of Information Act request to make this memorandum public is the subject of litigation. Complaint available at <http://www.aclu.org/Files/OpenFile.cfm?id=12356>
- ⁶¹ National Immigration Forum, *Organizations Opposed to Local Enforcement of Immigration Laws.*, available at <http://www.immigrationforum.org/documents/TheDebate/EnforcementLocalPolice/OppositiontoSLEnforcement.pdf>
- ⁶² See Ferrel, citing *City of New York v. United States*, 179 F.3d 29, 2nd Cir. N.Y. (1999).
- ⁶³ The entry of this information is the subject of current litigation. See Complaint, Nat'l Council of La Raza v. Ashcroft, No. 03 Civ. 6324 (E.D.N.Y.) available at <http://www.aclu.org/Files/OpenFile.cfm?ID=14599>
- ⁶⁴ See attached Houston Police Department General Order re: Immigration, June 25, 1992.
- ⁶⁵ For a detailed policy stance against local enforcement, see International Association of Police Chiefs, *Enforcing Immigration Law: The Role of State, Tribal and Local Law Enforcement*, 2004. Available at <http://www.theiacp.org/documents/pdfs/Publications/ImmigrationEnforcementconf%2Epdf>
- ⁶⁶ *Id.*
- ⁶⁷ See Carafano, James., "No Need for the CLEAR Act: Building Capacity for Immigration Counterterrorism Investigations," April 21, 2004, available at <http://www.heritage.org/Research/HomelandDefense/em925.cfm>.
- ⁶⁸ See National Immigration Forum, above.
- ⁶⁹ The following discussion owes a great deal to conversations with Julien Ross of the Central Texas Immigrant Worker Rights Center; to Julien Ross, "A Fair Day's Pay: The Problem of Unpaid Workers in Central Texas," 10 *Tex. Hisp. J. L. & Pol'y* 117 (Fall 2004), and to Rita J. Verga's "An Advocate's Toolkit: Using Criminal 'Theft of Service' Laws To Enforce Workers' Right To Be Paid" (forthcoming).
- ⁷⁰ See also, generally, on state labor laws, National Employment Law Project (NELP) Materials: "Model State Legislation for Non-Standard Workers"; "Survey of State Penalties for Wage Violations"; and "Fact Sheet on Day Laborers, Temporary Workers, and Day Labor Fairness and Protection Act."
- ⁷¹ The statute covered services provided "in hotels, campgrounds, recreational parks, restaurants, and comparable establishments."
- ⁷² "CTIWorC/APD/Travis County Theft of Wages Case Statistics" (8/02–12/04).
- ⁷³ Correspondence with Kathy Michienzi, February 2005; and Michienzi's master's thesis, "Modern Day Slavery: Unpaid Wages to Immigrant Day Laborers in the U.S. and Colorado, An Exploration of Day Labor, Worker Protection Laws, and Community Responses," University of Denver, Graduate School of International Studies, May 2004.
- ⁷⁴ See *Arizona Republic* article on theft of services, April 30, 2004, and correspondence with Detective T.C. Amos, Public Affairs Bureau, Internet Detail, Phoenix Police Department, February 22, 2005.
- ⁷⁵ As mentioned elsewhere, before starting this kind of initiative the New Haven Police Department would need to make a formal commitment to not enforcing immigration laws.
- ⁷⁶ Legal remedies are generally slow, often incomplete, and demand significant resources. It is also important to keep in mind that defendants have greater protections in criminal than in civil proceedings, that there are evidentiary problems involved in many wage claims, and that immigrant workers have a real fear of deportation.
- ⁷⁷ Confirmed by email correspondence with Gary Pechie, Connecticut Department of Labor, March 1, 2005; more follow-up with the Department of Labor is required.
- ⁷⁸ Police Professionalism Initiative: University of Nebraska at Omaha & National Latino Peace Officers Association, "Police Outreach to the Hispanic/Latino Community: A Survey of Programs and Activities," November 2002 [hereinafter referred to as "Survey"]; http://www.lvmpd.com/Programs/HART_Team.
- ⁷⁹ Survey; Charlotte-Mecklenburg Police Department; International Relations Unit, "Law Enforcement Services to a Growing International Community: An Effective Practices Manual," January 2004; www.charmeck.org/Departments/police/crime+info/international+relations/home.asp.
- ⁸⁰ Survey.
- ⁸¹ *Id.*
- ⁸² *Id.*
- ⁸³ *Id.*
- ⁸⁴ *Id.*
- ⁸⁵ *Id.*; Hard, S., "Amigos De La Comunidad' Makes New Friends in Corcoran," *Community Policing Exchange* (January/February 2000), Phase VII No. 30, at www.communitypolicing.org/publications/exchange.

⁸⁶ Survey.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ For more information go to www.indygov.org and click on “Mayor” to find the link for the Mayor’s Commission on Latino Affairs.

⁹⁰ For more information go to www.baltimorelatino.com.

⁹¹ The New York Times, “Hispanic Population is Rising Swiftly, Census Bureau Says”, June 19, 2003.

⁹² The numbers increase in the summer, when seasonal workers arrive in New Haven to work in farms in surrounding towns.

⁹³ “New Haven (Fair Haven), CT Weed and Seed Demographic Trend Report: Update Demographic Trend Report,” Weed & Seed Data Center, January 31, 2002. available at http://www.weedandseeddatacenter.org/ct-fair_haven/demographics.shtml (last viewed August 14, 2002)

⁹⁴ City of New York, New York, Mayor’s Office of Immigrant Affairs, *About Immigrant Affairs*, available at http://www.nyc.gov/html/imm/html/aboutimm/affairs/about_imm_affairs.shtml. (last visited September 29, 2005)

⁹⁵ City of Boston, MA., Office of the Mayor, Mayor’s Office of New Bostonians, *MONB’s Accomplishments*, available at <http://www.cityofboston.gov/newbostonians/default.asp> (last viewed September 30, 2005)

⁹⁶ Greater Philadelphia Global Partners, *The Welcoming Center for New Pennsylvanians*, available at http://www.gptwo.com/Guide_Content/welcoming_center_new_pa.htm (last viewed October 7, 2005)

⁹⁷ Welcoming Center for New Pennsylvanians, *About Us: Vision and Mission*, available at http://www.welcomingcenter.org/about_vision.html. (last viewed October 7, 2005)

⁹⁸ Excerpt, Los Angeles Charter for Office of Immigrant Affairs. City of Los Angeles, Office of the Mayor, available at <http://www.lacity.org/mayor/sp/moia/> (last viewed March 30, 2005)

⁹⁹ As background, following is where the relevant provisions fall. Within the Wage and Hour Law, Chapter 556: Labor Department §§ 31-1 to 31-11k; Chapter 557: Employment Regulation §§ 31-12 to 31-57g; Chapter 558: Wages (Part I: Minimum Wages, §§ 31-58 to 31-69b; Part II: General Provisions, §§ 31-70 to 31-76m). Within the Penal Code, Chapter 952: Offenses; Part IX, Larceny, Robbery, and Related Offenses, § 53a-119.

¹⁰⁰ The statute requires the Commission of Labor to produce outreach materials to immigrant workers, in their own languages, that explain their workplace rights. Employers cannot take advantage of workers through their lack of information about rights, their credulity, or their lack of English proficiency.

¹⁰¹ This provision is preceded by the civil penalty in 31-68: Collection of minimum or overtime wage.

¹⁰² This provision is followed by the civil penalty in § 31-72: Civil action to collect wage claim, fringe benefit claim or arbitration award.

¹⁰³ See C.G.S. § 53a-118, Definitions: “(7) Service includes, but is not limited to, labor, professional service, public utility and transportation service, the supplying of hotel accommodations, restaurant services”

¹⁰⁴ See also C.G.S. § 53a-119(14), failure to pay prevailing rate of wages: A person is guilty of failing to pay the prevailing rate of wages when he (A) files a certified payroll, in accordance with section 31-53 which he knows is false, in violation of section 53a-157a, and (B) fails to pay to an employee or to an employee welfare fund the amount attested to in the certified payroll with the intent to convert such amount to his own use or to the use of a third party.