

The Jerome N. Frank Legal Services Organization

YALE LAW SCHOOL

March 26, 2009

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Dear Ms. Cutlar and Mr. Kappelhoff:

This complaint, submitted on behalf of St. Rose of Lima Church, whose members include shopkeepers and residents of East Haven, Connecticut and residents of neighboring towns, alleges that the East Haven Police Department (EHPD), a law enforcement agency that receives federal funds, engages in a pattern and practice of race-based violence and racial profiling against Latinos in East Haven. Since June 2008, the EHPD has targeted the Latino community in improper stops, searches, and seizures, false arrests, and the use of excessive force in ordinary encounters with Latino residents and motorists. Latinos are pulled over without reasonable suspicion while driving, arrested without probable cause and in some cases severely beaten by law enforcement officials. As a consequence, Latinos in East Haven now live in daily fear of harassment and retaliation by East Haven police officers.

In the last twenty years, the Latino community in the predominantly white working-class town of East Haven has quadrupled to about 1,900, or nearly six percent of the population. Latino-owned businesses have also opened their doors in town, especially along the western end of Main Street, one of the town's principal commercial corridors. Rather than engaging with this growing community in cooperation and respect, the EHPD has treated Latino residents with suspicion and hostility that has generated a pattern of racial profiling. The EHPD's discrimination against Latinos is only the most recent chapter in a long history of police violence against racial minorities in East Haven. In the late 1990s, the EHPD came under national scrutiny for race-based violence and brutality against the African-American community when one of its officers shot and killed Malik Jones, an African-American man, following a high speed chase. Despite national attention and local dialogue about the problem of racial profiling in the department, the EHPD has not changed its policies and has continued to support the same law enforcement culture. The result is a widespread practice of racial profiling that has devastated the Latino community:

Race-Based Violence and Excessive Force. Latinos in East Haven report a pattern and practice of excessive use of force by EHPD officers. Earlier this year, several Latinos were beaten while in police custody; another was electrocuted three times with a taser gun entrusted to EHPD officers. Latinos have faced violence at the hands of police officers in arrests, detentions, and otherwise routine encounters such as traffic stops, and officers have unnecessarily escalated ordinary encounters into violent confrontations.

Harassment and Intimidation. These egregious acts of violence are part of a broader pattern and practice of harassment and intimidation of Latinos. EHPD officers improperly stop, search, and detain Latinos in the course of ordinary law enforcement operations such as traffic stops. East Haven police officers linger outside of Latino-owned businesses and stop cars driven by Latinos without cause and then demand that Latino drivers produce driver's licenses when they have not committed moving violations. Latino merchants have seen their businesses suffer as customers report that they are too afraid of police harassment to come to targeted stores. Many Latinos who have been impacted by EHPD's practices are reluctant to contact the police, and in fact, question whether the department can and will protect them. The EHPD's campaign of harassment has created fear throughout the Latino community in East Haven and among Latino residents of neighboring towns who fear to shop or visit in East Haven.

The Department's Tacit Approval. Despite direct calls and complaints by Latino residents, the EHPD has repeatedly refused to respond to concerns of racial profiling. Police Chief Leonard Gallo and the EHPD have permitted a pattern and practice of racial profiling through their failure to adequately train, supervise, and monitor individual police officers, and their failure to document citizen complaints of misconduct, investigate alleged misconduct, and discipline officers who are guilty of misconduct.

Police Retaliation and Lack of Redress. The EHPD has retaliated against individuals who sought to monitor, challenge, or speak out against the department's misconduct. Officers have harassed individuals who report incidents of police abuse to the public and have falsely arrested persons who witness and document incidents of police misconduct. Town officials have not been able to intervene to end police misconduct.

The actions of the EHPD require an investigation by the U.S. Department of Justice (DOJ) into the department's pattern and practice of discriminatory treatment of Latinos. The DOJ has investigated similar patterns and practices by local law enforcement agencies in the past and has required police departments to remedy discriminatory practices.

I. LEGAL PRINCIPLES: THE PROHIBITION ON RACIAL PROFILING

The East Haven Police Department has engaged in and continues to engage in a pattern or practice of racial profiling that deprives Latinos in East Haven of rights, privileges, or immunities secured or protected by the Constitution (including the Fourth and Fourteenth Amendment) or the laws of the United States, in violation of 42 U.S.C. § 14141(a). The misconduct of the EHPD subjects Latinos in East Haven to discrimination on the basis of race in violation of the anti-discrimination provisions and implementing regulations of the Omnibus Crime Control and Safe Streets Act, as amended, 42 U.S.C. § 3789d(c). The Department of

Justice Civil Rights Division has investigated numerous local law enforcement agencies engaged in similar practices of racial profiling. See e.g., *U.S. v. State of New Jersey, et al.*, 99 CV 5970 (D.JH)(MLC); *US v. City of Los Angeles* 00 CV 11769 (GAF).

East Haven police officers are harassing, arresting, and detaining Latinos in traffic stops and outside of Latino-owned businesses, often with the use of excessive force, in a pattern of racial profiling that violates equal protection rights. EHPD actions demonstrate intentionally discriminatory application of facially neutral laws and policies. See *Pyke v. Cuomo*, 258 F.3d 107, 110 (2d Cir. 2001); see also *Brown v. Oneonta* 221 F.3d 239 (2d Cir. 2000). The Supreme Court has long held that plaintiffs bringing equal protection claims must establish “that the state action complained of had a disproportionate or discriminatory impact [and] also that the action was taken with intent to discriminate.” *United States v. City of Yonkers*, 96 F.3d 600, 612 (2d Cir. 1996); see generally *Washington v. Davis*, 426 U.S. 229, 239 (1976). The accounts of Latinos harassed and injured in traffic stops demonstrate that the actions of law enforcement officers were “motivated at least in part by a racially discriminatory purpose.” *United States v. Yonkers*, 96 F. 3d 600, 612 (2d Cir. 1996). In story after story, East Haven police officers have made comments to Latinos stopped and ticketed in traffic stops and ordinary law enforcement operations that disclose racial animus.

In the sections below, we elaborate upon the misconduct that warrants further investigation by the DOJ. Due to fear of continued police harassment, we have used pseudonyms and omitted certain identifying details in the following stories.

II. THE FACTS: PATTERN AND PRACTICE OF RACIAL PROFILING OF LATINOS

A. Race-Based Violence and Excessive Force

The East Haven Police Department has an unfortunate history of using excessive force against communities of color. On April 14, 1997, an East Haven police officer shot and killed Malik Jones, an African-American, after the East Haven Police had surrounded his vehicle. The New York Times reported that “[t]he officer went to the driver's side door, broke the window with his gun, and fired several shots point blank at Mr. Jones.” Melina Tuhus, *Tangled Aftermath of a Killing by Police*, N.Y. TIMES, Aug. 17, 1997, at 13CN1. Six years after the incident, a federal jury ruled that the officer used “excessive force” and ordered the town of East Haven to pay \$2.5 million to Jones’s family. Marc Santora, *Town Ordered to Pay Family of a Man Killed by the Police*, N.Y. TIMES, Jul. 11, 2003, at B6. The Jones family brought a civil rights suit against the EHPD, arguing that “the East Haven police had profiled minority drivers, patrolling the border and routinely stopping black drivers and harassing them.” *Id.* The jury in the civil case “decided the town of East Haven was responsible for allowing a pattern of behavior by its Police Department that led it to treat members of minorities unfairly.” *Id.* Six years later, Latino members of the East Haven community face a new pattern of excessive force perpetrated by the EHPD.

The Story of Guillermo, Jeremy, Juan, and Jorge – January 2009

In early 2009, EHPD Officer Dennis Spaulding, supported by other members of the East Haven Police Department, arrested four Latino men. By the night's end, the EHPD's officers had attacked and beaten two of the men, pepper-spraying one in the back of a patrol car and leaving the other screaming for help on the jailhouse floor, and taunted all four men with race-based epithets.

One evening in January, Guillermo, Jeremy, Juan, and Jorge were driving to La Bamba restaurant in East Haven. While they were stopped at a red light, a police car passed them going in the opposite direction. The squad car passed slowly, made a u-turn, and then followed Guillermo's car into the restaurant parking lot.

Officer Dennis Spaulding asked for Guillermo's license and registration without explaining the reason for the stop. Officer Spaulding then obtained Juan's license, even though he was a passenger in the car. Officer Spaulding looked at Juan's Arizona license and then threw it back at Juan and onto the car floor. More patrol cars arrived and soon there were five or six police cars surrounding Guillermo's vehicle. Juan reached down to pick up his license off of the floor, and then another officer opened the door and dragged Juan out of the vehicle by his collar. The officer searched Juan, took his license again, and told him to leave the parking lot.

While watching the EHPD officer frisking Juan, Jorge asked Officer Spaulding why his friends were being treated so roughly. Spaulding replied by asking if Jorge wanted to be arrested. Jorge told Officer Spaulding that he did not understand why Spaulding would do this, and then Spaulding told him to get out of the car. Spaulding frisked Jorge, put him in handcuffs, and then placed him into a squad car. Jorge asked again what he had done wrong, but a second police officer only responded that Jorge would find out at the police station.

After Jorge's arrest, Juan requested that the officer who had searched him return his driver's license. In response, the officer told Juan to leave; Juan asked again if he could have his license. Juan began searching the ground for his license and asked the officer a third time for his license. The officer replied, "Now you're going to get arrested too." The officer cuffed Juan and put him into a squad car. Jeremy, the third passenger in the car, asked officer Spaulding why Juan was being arrested, and Spaulding responded that now Jeremy was also going to be arrested. Spaulding cuffed Jeremy and placed him in a squad car. With only the driver, Guillermo, left in the original vehicle, Officer Spaulding then took Guillermo out of the car, handcuffed him, and placed him in one of the squad cars.

While driving Juan to the police station, the officer asked where Juan was from, rolled down the back windows of the vehicle, and then stopped the vehicle and pepper sprayed Juan in the face. Later in the drive to the police station, the officer again asked Juan where he was from, stopped the car, and sprayed Juan in the face with pepper spray while he was being handcuffed. When they arrived at the police station, the officer opened the back door and then suddenly punched Juan in the face. The officer continued to smack and punch Juan in the face while taking Juan to his cell. At least three other officers witnessed this attack.

The same officer then walked Jorge to the cells. The officer shoved Jorge against a concrete wall, grabbed Jorge's shirt and hair and then slammed his head against the wall again. Jorge fell to the ground and shouted for help; all three of his friends heard the screams from different parts of the police station. The officer asked Jorge if he was a baby, then laughed.

Once in the cell, Jorge tried to get the police officers to take him to a doctor for his head injury. When Jorge shouted for a doctor, the officer who had struck him came back to the cell area. The officer reached through bars of Jorge's cell, grabbed his shirt, ripped it off, and told Jorge, "Shut the f--k up." All four men spent the night at the police station, and sporadically heard Officer Spaulding taunting them in broken Spanish.

Hector's Story – February 2009

In February 2009, Officer Dennis Spaulding and a second officer responded to a domestic disturbance call at Hector's home. While arguing with his son, Hector had accidentally knocked over a vase. When Officer Spaulding asked who broke the vase, Hector admitted that he had done so. Spaulding and the other officer then put Hector in handcuffs and began leading him out of the house. Hector asked if he could put on his shoes due to the cold weather, but the officers refused. When Hector asked why they refused, the other officer punched Hector twice in the chest. Hector's son tried to intervene, but the police pushed him away. Officer Spaulding and the other officer then dragged Hector across his gravel driveway and called him a "f--king immigrant." The officers put Hector in the car, and Officer Spaulding showed Hector his middle finger through the glass barrier between the front and back seat.

The officers drove Hector to the police garage, and en route, Officer Spaulding slammed on his brakes, so that Hector's head cracked against the glass screen between the front and back seats. At the police garage, Officer Spaulding took Hector out of the police car and struck him twice in the face, bloodying his nose. Hector was taken into the police station and a captain asked why Hector was covered in blood. A different officer responded that Hector hit his head on the glass barrier of the squad car, and they laughed. Hector asked if he could wash the blood off his face, but the officers continued to laugh and make fun of him. Hector was held at the station and released that same evening.

Enrique's Story – February 2009

In February 2009, police officers approached Enrique in a bar in East Haven. Enrique asked the police officers about the treatment of a local priest who had spoken out in defense of the Latino community. This seemed to make the officers angry. Officer Dennis Spaulding told Enrique to shut up and handcuffed him. Then, Officer Spaulding drew a taser gun and electrocuted Enrique. Enrique fell to the ground, face down, still handcuffed, and the officer tasered him twice more. This, apparently, was the first use of EHPD's newly issued taser guns.

Spaulding then kicked Enrique in the head before picking him up and taking him to a squad car. Spaulding opened the car door, punched Enrique in the face, and then pushed him inside the vehicle. Enrique asked why he was being arrested, and Officer Spaulding told Enrique that he was a "fucking wetback" who needed to go back to his country. Enrique told Officer Spaulding that he planned to tell others what he had done to him. Officer Spaulding then turned,

waited for other officers to walk away from the vehicle, and said that he would kill Enrique if he complained or told anyone what had happened that night.

B. Harassment and Intimidation

The race-based violence perpetrated by the EHPD upon Latino individuals is not limited to isolated instances of brutality but rather is part of an ongoing pattern of dangerous police misconduct. The examples of excessive force exercised by East Haven police officers in early 2009 discussed above were neither the first nor the last instances of this pattern of misconduct by the EHPD. Racial profiling and racially motivated harassment have become common EHPD practice, and the race-based hostility underlying this enforcement has created a volatile and unsafe environment for Latinos in the town of East Haven.

Latino residents have reported racial profiling in three broad areas: (1) race-based traffic stops and other law enforcement actions in which officers target and harass Latinos, (2) additional penalties in police stops, and (3) intimidation at Latino-owned businesses located along West Main Street, where many of the events described below took place.

(1) Race-Based Traffic Stops and Other Law Enforcement Actions

Members of the EHPD have repeatedly targeted Latino community members in race-based traffic stops. Latino drivers are pulled over without cause, frequently as they are leaving or entering Latino owned businesses. In some instances, police officers give drivers no explanation for why they have been pulled over; in other cases, the reasons given by police officers are false or inaccurate. In violation of state public records statutes and racial profiling reporting requirements, the EHPD has failed to disclose records related to the racial and ethnic composition of those subjected to traffic stops. *See* CONN. GEN. STATUTE §§ 54-1m(b), (f); Mary O’Leary, *East Haven Fails to File State Racial Profiling Data*, NEW HAVEN REGISTER, Mar. 7, 2009. However, anecdotal evidence from storeowners in the area indicates that where Latino drivers are harassed, white drivers are allowed to pass through. Police officers ticket or arrest Latino drivers for violations they discover after stopping the drivers without cause. During the course of these stops, East Haven police officers not only use excessive force, but also use threats and race-based insults to intimidate Latino residents. These demeaning and threatening comments further support the premise that the EHPD targets certain community members because of their race. It is unlikely that the full extent of the EHPD’s discriminatory traffic stops will emerge until the department releases the relevant statistics on the proportion of non-white residents stopped and ticketed in the predominantly white town. The following stories are examples of a larger pattern.

Ronaldo’s Story – March 2009. Ronaldo was pulled over by the East Haven police in March 2009. Two patrol cars passed him as he was driving up to a pharmacy. Soon afterwards, a patrol car approached Ronaldo from behind and put on its lights. The officer claimed he pulled Ronaldo over because the officer’s records allegedly showed that the car’s driver had an out of state license. Ronaldo told the officer that, in fact, his registration, license plates, driver’s license, and proper insurance were all from Connecticut. The officer became angry and asked if Ronaldo was accusing him of lying. Then, the officer looked at Ronaldo’s license and registration and asked why the birth dates on the two documents did not match. Ronaldo

explained that vehicle registrations do not include drivers' birth dates, only registration expiration dates. Eventually, the officer let Ronaldo go without a ticket.

Joaquin's Story – February 2009. In February 2009, Joaquin had just left a store on Main Street when Officer Dennis Spaulding, who had been parked across the street, pulled him over. Officer Spaulding claimed that Joaquin was driving with a suspended license; Joaquin explained that his driver's license was valid. Officer Spaulding repeatedly tried to make Joaquin produce a New Haven ID card, a local form of identification that has frequently been associated with immigrants, even though he had already shown a valid driver's license. Officer Spaulding continued to insist that Joaquin had a suspended license and called a tow truck. Later, the charges against Joaquin were dismissed, because there was no record of any problems with his license and Officer Spaulding had put someone else's driver's license number on the ticket.

Elias's Story – early 2009. Late one evening in early 2009, Elias was driving a car with Connecticut license plates when he was pulled over by an EHPD officer in Patrol Car 21. He had not committed any moving violations. The officer said that he pulled Elias over because "you illegals" drive without licenses. Elias received a ticket for driving without a license. Later, the same officer told Elias that he should move out of East Haven, because the town is a small community that doesn't want "illegals."

Manuel's Story – Fall 2008 and February 2009. Manuel was "pulled over" in the fall of 2008; at the time, he was parked in the parking lot of his home and already walking away from his car. The officer said he was being ticketed for having Pennsylvania license plates. Manuel was stopped again in February while he was driving on Main Street; this time the officer claimed that he had been speeding, but that was not the case. Manuel presented a foreign driver's license to an East Haven police officer, who threw it on the ground and said it was no good here. The State of Connecticut does, however, recognize foreign driver's licenses and merely requires new residents transfer their licenses within thirty days after establishing residency. Manuel asked why and the officer told him to shut up and threatened to punch him. The officer kept requesting additional identification, so Manuel gave him a credit card along with the papers for his car. Later, the officer threw the documents out of his car window, but did not return the credit card. When Manuel was out of the car, the officer pushed him without any reason. Manuel received a ticket for driving without a license.

Freddie's Story – December 2008. Freddie was pulled over in December 2008 while driving with his family. Although he did not commit a moving violation, Freddie received a ticket for driving without a license or registration, his foreign driver's license was confiscated, and his car was towed. When Freddie showed the police officer his foreign license, the officer asked how much Freddie had paid for it. The officer said that the license was "trash" here – and that Freddie was "stupid" for driving without a real license.

Esteban's Story – June 2008. One afternoon in June 2008, Esteban was pulled over near Main Street in East Haven. He had not committed any moving violations, and the officer did not explain why Esteban had been pulled over. Esteban was ticketed for having out-of-state license plates and driver's license, although he had only recently moved to Connecticut. He did not contest the fines in court because he did not want additional trouble from the police.

Jesus's Story – January 2009. Jesus was pulled over by East Haven police in January 2009. After leaving a Latino-owned business with his girlfriend, he parked his car outside of a store while his girlfriend went inside to make a purchase. A police car passed Jesus, made a U-turn, and stopped directly behind his car. Although Jesus had committed no moving violations and was not even driving when police officers spoke to him, he was ticketed for driving without a license.

Cristobal's Story – March 2009. Cristobal drove by a police officer one evening in March 2009. He was not in violation of any traffic laws, but the police officer immediately made a u-turn and pulled Cristobal's car over. The street was light enough that the officer could likely have seen Cristobal's face as he was driving past. Cristobal was subsequently arrested for improper vehicular documentation.

Natalia's Story – March 2009. Natalia was pulled over in March 2009 as she was leaving a Latino-owned business on Main Street. As soon as she pulled onto the road, a police car drove up behind her and pulled her over. The officer claimed that he had stopped her because her front license plate was missing, but he did not see the front of her car until after he had pulled her over. He could not have seen it, because he was parked so that her front bumper was not visible to passing cars when a patrol car drove past her. She received an additional ticket because she had not put her new insurance card into the car.

Gonzalo's Story – summer/fall 2008. In August or September of 2008 at about 9:30 pm, Gonzalo was trying to leave a parking lot where his friend had been pulled over by the East Haven police. Officer Cari of the EHPD pulled up to his car and blocked him in. While Gonzalo had received a ticket from the EHPD previously, he had not committed any moving violations. When he showed his international driver's license, the officer threatened to arrest Gonzalo because, Officer Cari falsely stated, Connecticut does not recognize those licenses; eventually he was released after receiving a ticket. Connecticut does recognize these licenses, requiring only that new residents of the state get Connecticut licenses within thirty days of establishing residency. Gonzalo believes that before he was stopped, the police officer could likely see his face with the patrol car's headlights.

Geronimo's Story – February 2009. In February 2009, Geronimo was pulled over when he drove past a police officer parked on Main Street. Geronimo had not committed any moving violations but was ticketed for driving without a license. A police officer told Geronimo that because he lived in Connecticut, he could not have a car with Massachusetts plates and insurance. The police officer did not ask how long Geronimo had been living in Connecticut. When Geronimo explained that he did not have a license, an East Haven police officer opened Geronimo's car door, pulled him out by his arm, and threw him against the side of his car, then removed his wallet and searched through it.

Ennis's Story – December 2008. In December 2008 at about 6:00 pm, Ennis was driving down Main Street when he was pulled over by an East Haven police officer. While the officer said that the stop occurred because he found out about a problem with the license of the person who had registered the car, Ennis saw the officer pull up along side of the car, look at his face, and then fall back to pull him over. Ennis received a ticket for driving without a license.

Stefan's Story – December 2008 to present: The EHPD first visited Stefan's home in December 2008 regarding a loose dog; after the initial visit, officers repeatedly returned when his dog was not in the street. The officers have interrogated his wife and demanded identification from her. The officers are often verbally abusive to Stefan and his wife, reminding them that "[t]his is not Mexico."

When Stefan challenged the harassment by questioning why the police were on his property if there were no disturbances, the visits became more invasive as officers searched his property without a warrant and threatened to tow cars from his home. When Stefan reminded the officers his property was private, they quipped that immigrants were bringing down property values in East Haven. The continued harassment drove out both of Stefan's tenants on February 1, 2009, leaving him with a net loss of more than \$1900 per month. Faced with lost rent and constant harassment by the EHPD, Stefan is convinced that the years of work he spent to buy a home for his family and make his property rentable for tenants have been for nothing. Even though Stefan has asked his attorney to file a complaint with the Police Commissioner, he does not believe the harassment will end and recently asked his attorney to sell his home.

(2) Additional Penalties in Police Stops

EHPD officers frequently call tow trucks to remove the cars involved in the traffic stops of Latino motorists even when a licensed driver is available to drive the car away. Tow truck companies then may demand cash payments from car owners in order to avoid having vehicles moved to the towing company's lot; such deals appear to take place with the tacit approval of East Haven police officers.

Esteban's Story – June 2008. When Esteban, who had a valid out-of-state driver's license, was pulled over, a police officer told him to produce a social security card for identification. Then, the officer told Esteban that he ought to move to the neighboring town of New Haven, because he would not have trouble there like the problems he would have if he remained in East Haven. Months later, scared of the town's police, Esteban in fact did move to New Haven. After the stop, Esteban's car was towed, but the tow truck driver agreed to leave the car at a friend's home in exchange for \$90 in cash.

Benjamin's Story – March 2009. In March 2009, Benjamin was called by a friend who was driving Benjamin's car and had been ticketed for driving without a license. The EHPD officer on the scene insisted that the vehicle had to be towed even though Benjamin had arrived to drive it home. However, when Benjamin spoke to the tow truck driver, he agreed to give Benjamin the car immediately in exchange for \$100. Even though the police officer was still at the scene, Benjamin was allowed to take the vehicle away after giving cash to the tow truck driver.

Gonzalo's Story – March 2009. When Gonzalo was ticketed for driving without a license in March 2009, the police officer and tow truck driver allowed one of his passengers to ride in the tow truck; the passenger gave the tow truck driver \$100, and the car was left at his friend's home instead of being driven to the tow truck's parking lot.

(3) Intimidation at Latino-owned Businesses

Police harassment and intimidation has affected the many Latino individuals targeted in traffic stops and other law enforcement actions over the last year. It has also had a chilling effect on the wider Latino population of East Haven. Businesses that cater to Latino clientele have seen a drop off in customers, as town residents become frightened to go to areas where police harassment is now expected.

Patricio's Story. Patricio reports that, soon after opening his store, he noticed that police officers would wait outside for people to leave the store and then pull them over after they got into their cars. He noticed that the police officers were stopping people who had not done anything wrong and that they were stopping only Latino drivers, not white drivers. Some days the police would stop two or three people coming from his store, usually at about six in the evening. Patricio began to lose business when his customers realized that the police officers were stopping Latinos outside of Latino-owned businesses. Though his initial client base was predominantly Latino, many of those customers have stopped coming entirely, hampering the growth of his new business.

Lazaro's Story. Lazaro, an East Haven resident for the past year, reports increasing trouble with the East Haven police harassing his Latino customers. At first, the police would park across the street and pull over Latino drivers before they even exited the parking lot of his business. Often customers would show him the tickets afterwards, many bearing different addresses even though they were stopped directly in front of Lazaro's business. At times, officers even entered his private parking lot to check whether cars had out-of-state license plates, ticketing and towing cars with non-Connecticut plates. In one instance about two months ago, Lazaro arrived at his place of business to find police and the tow truck already in his parking lot. He asked if someone had called them, and, when the officer responded "no," Lazaro told him not to enter his lot anymore. Hearing this, the officer threatened to come everyday. Frustrated, Lazaro could only ask, "What, you don't like Hispanics?" The officer responded, "No, I don't." The officer then entered Lazaro's store and asked for proof of vehicle insurance and registration from the customers inside. Unbeknownst to Lazaro, his customers had remained in the store, fearful of interacting with the police, whose attitudes towards Latinos were already known in the community. In the end, the officer issued a ticket and towed a car from the lot.

After this incident police began parking right outside Lazaro's store. No one could leave without getting pulled over. Lazaro's Latino clientele has responded to this ever-present threat of arbitrary enforcement by ceasing to patronize his store. In the past four months, there has been a cognizable drop in customers. The lost business has forced him to lay off his hired help and has made it difficult for him to pay rent and monthly bills. Since the police continue to drive away Lazaro's customers, he is considering reopening a different business with the hope that it would not be targeted by the EHPD.

C. The Department's Tacit Approval

Law enforcement supervisors have a duty to be aware of the conduct of their inferior officers. The failure of EHPD supervising officers and other officers to respond to articulated complaints and clear evidence of department-wide misconduct demonstrates tacit acceptance, if

not affirmative approval, of these unlawful practices. Their apparent approval of these discriminatory and violent enforcement methods has effectively chilled subsequent attempts by victims to remedy this practice.

These race-based instances of unlawful violence have occurred within the official physical space of the East Haven Police Department, in plain view and earshot of the stations staffing officers and supervisors on duty. The stories of the four Latino men arrested in January 2009 demonstrate this collaboration. As East Haven police officers escorted Juan to his cell, the arresting officer hit him repeatedly on their walk through the station. As this happened, one of the officers standing by came and removed the gun from the arresting officer's belt while the others simply sat and watched. When Jeremy and Juan arrived at the police station the night of their arrest, they could hear Jorge scream as the officer smashed his face into a wall in the interrogation room. When the officers in the station heard Jorge screaming for help, one came into the interrogation room. Jorge told him what happened and showed him his injuries, but the officer only asked who saw him get hit. Both officers began to laugh. Later that night, Jeremy and Juan could hear Jorge yelling for a doctor. An officer arrived, grabbed Jorge through the cell bars, and ripped off his t-shirt through the cell bars. At some point later, a third officer who clearly knew what happened brought him another t-shirt.

The EHPD's practice of tacitly condoning officer violence is also demonstrated in the case of Hector. When Hector was brought into the station after being assaulted by the arresting officer, the captain in the station asked why he was covered in blood. A third officer chimed in that Hector hit his head on the glass barrier of the squad car. At this point, all of the officers present – including the arresting officer, the captain, the officer that responded to the captain's question, and the other officers in the stations – began laughing and making fun of Hector.

The EHPD's practice of approving officer violence extends even further. When complainants try to set the record straight about their cases, department-wide collusion renders them powerless. During arrests, officers ignore questions and protests and fabricate reasons for stopping drivers, leaving little reason for the complainants to believe that their complaints will be heeded by anyone else in the department. Juan merely asked for his license to be returned to him and, when officers refused, politely asked twice more. In response to this request, he was arrested, handcuffed, and beaten. Despite inquiries as to the real reason for their baseless traffic stop, the arrest record falsely reported that they had been stopped for a broken taillight and were arrested for refusing to get out of the car and insulting the officer, referring to three unnamed witnesses as corroboration for the officers' fabricated account. Latinos targeted by the EHPD in other incidents (including Stefan and Natalia, whose stories appear above in Part B.) explained that they would not be able to provide specific information even if they felt comfortable filing a complaint, because officers refused to give their names when asked. Stefan was told that he would be arrested if he asked for the name of the officer who was harassing him again.

Latino business owners, considered leaders in their community, were among the few who felt comfortable enough to complain to the EHPD about the officers' conduct in their community. One local storeowner called the department to report the behavior of EHPD officers who had posted themselves outside his store and proceeded to stop only Latino customers before they were able to pull out of the parking lot. The storeowner expected that the department would at least send another officer to check out the misconduct. Instead, he was told that the officers

were just doing their job. After he received a similar dismissal in response to his second complaint, he realized that the EHPD would not act on his account and did not lodge another complaint. When another local storeowner asked an officer not to enforce against customers on his private property, the officer pressed further into his private property, enforcing driving regulations on store property, and then stationed police checkpoints outside of his store for days afterwards. The increase in fear and aggression and decrease in profits sends a strong message to business owners and residents about the costs of asserting personal or proprietary rights.

The New York Times recounts how the daughter of one storeowner called the EHPD office to lodge a similar complaint with a police supervisor: "This is a problem — did we do something wrong?" When she asked why the police stationed outside their business only stopped their Latino customers, she was told, "Well, this is how we do things in East Haven." Christina Negroni, *Priest's Video Contradicts Police Report on Arrest*, N.Y. TIMES, Mar. 12, 2009 at A23. Although she asked to speak to Chief Gallo, she was told dismissively that he was busy and no further action was taken.

Latino residents of East Haven, especially those without permanent legal resident status, are already reluctant to interact with law enforcement officials. Many community members did not complain about the officers' race-based enforcement for fear that the officer would attempt to have the complainant, or a friend or household member, deported. This fear is validated by the EHPD practice of asking complainants for identifying information. When Latino residents hear that even the complaints of business owners, relatively powerful members of the Latino community, are rebuffed by the EHPD, they reiterate their reason for withholding their complaints: it won't change anything.

D. Police Retaliation for Exercise of Civil Rights and Lack of Redress for Retaliation

Latino residents of East Haven are without meaningful redress. The EHPD's refusal to accept complaints by community members and remedy the problem has produced a chilling effect on the Latino community in East Haven. Residents are afraid to patronize Latino-owned businesses for fear of retaliatory enforcement, interact with police officers, or even drive through parts of East Haven. When community members sought to bring these abusive enforcement practices to light, EHPD officers swiftly targeted and punished them for speaking out.

Father James Manship's Story – February 19, 2009

Father James Manship, a priest at the St. Rose of Lima Church in New Haven, sought to help his parishioners substantiate their continued harassment by the EHPD. On February 19, 2009, one of his parishioners, who is a shopkeeper with a store on Main Street in East Haven, called to report that EHPD officers were arresting and harassing a Latino man outside of her store. When Father Manship arrived at the store, he began to document on camera the misconduct of police officers. When the officers realized they were being recorded, they immediately confiscated Father Manship's video camera and arrested him. They then burst back into the store to look for the business's surveillance camera, demanded that the storeowner turn over the videotape, and barged into the back room of her store to look for the surveillance tape equipment. Officers called in a detective to search the premises for any sort of video recording of the incident and demanded to know if there was camera surveillance on the outside area in front

of the store, which would have created a record of their arrest tactics. The officers eventually left but returned two weeks later to ticket the storeowner and coerce the owner into signing an English-language document. Unable to read the paper, the owner refused to sign it. The officer then signed it himself and stormed out of the store.

In the police department's written report on Father Manship's arrest, the officers claimed that they arrested him on the charge of disorderly conduct for wielding a shiny metal object that could have been a weapon. Father Manship's videotape, however, reveals that the officers knew that the object he was holding was a camera and not a weapon. The officers confiscated the camera to stop Father Manship from documenting their misconduct and then fabricated post-hoc justifications for their actions that contravened any legitimate law enforcement authority. [See Attachments: Fr. Manship's Videotape, February 19, 2009; Case Incident Report for James Manship]

Retaliation for the Press Conference on March 4, 2009

Outraged by Father Manship's arrest, Latino community members decided to break their silence and report personal experiences of police misconduct to the public at a press conference on March 4, 2009. After the press conference, police harassment worsened.

A local storeowner described how police misconduct had caused fear in her community at the press conference and received coverage in local media. The day after the press conference, the storeowner and her husband noticed two police cars waiting outside their store in the middle of the night. The police cars followed the couple out of the parking lot and pulled them over less than a block from their store. The officers identified her husband by name and then accused him of driving with a suspended license, even though his license was valid. The officers checked her husband's license and registration before letting them go, saying only that there must have been some error in the computer system. The storeowner and her husband were terrified; the storeowner immediately felt that the police officers had identified and harassed her for speaking out. Just days after the press conference where she spoke out, a white supremacy group left anti-immigrant literature in front of her store. The following Monday, someone broke the window of her home's basement door, causing her to fear for her family.

Another local business owner who spoke out against police harassment at the press conference on March 4, 2009 endured similar retaliation. Following up one week later, *The New Haven Independent* reported, "police harassment has increased since the news broke of Manship's arrest. [The business owner] said that he witnessed five cars pulled over by police in front of his store within two hours on Sunday night." (Thomas MacMillan, *White Supremacists Pay a Visit*, *New Haven Independent*, Mar. 11, 2009) Like the local business owners, community members have noted the high price exacted on homes and businesses for speaking out against the EHPD's practices.

Lack of Redress


Latino community leaders sought relief from these abusive practices by appealing to various third parties but have not received adequate response. Police Chief Gallo and the EHPD's attorney Hugh Keefe have attempted to cast doubts on the victims' stories, downplaying

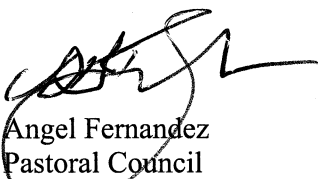
Latino residents' attempts to put an end to police harassment. See Christine Negroni, *Priest's Video Contradicts Police Report on Arrest*, N.Y. Times, Mar. 12, 2009, at A23. Community members have met with Mayor Capone Almon to seek a solution but found that she is unable to assert control over the EHPD. Several victims of unlawful traffic stops wrote a letter to the Ecuadorian consulate in an effort to reach out to anyone with power who might care about this unjust enforcement practice. Just like the mayoral office, the consulate could do little to reign in the unlawful law enforcement of the EHPD and nothing to recompense the financial, personal, and dignitary losses that continue to result. Latino residents of East Haven know that the EHPD's upper ranks give tacit approval to officers' practice of racial profiling and use of excessive force; they know that informal complaints by business owners have been ignored. In this context, it would be futile, and potentially dangerous, to attempt to use EHPD's formal complaint system, which would only bring complainants to the attention of a police department known for its harassment.

CONCLUSION

For the above reasons, we ask that the Department of Justice undertake an immediate investigation into this matter and take appropriate remedial action. The aforementioned witnesses to and victims of police misconduct (here protected by pseudonyms) have expressed willingness to offer their testimonies in the course of an investigation, provided that the Department of Justice ensures that they are not subject to retaliation by other law enforcement officials. Despite their concern about the potential for retaliation from the EHPD, the individuals whose stories are in this complaint spoke up in order to protect their rights and increase long-term safety and security in East Haven. We stand ready to assist the Department in any manner we can and would like to meet with the Department to discuss this matter as soon as possible.

Sincerely,


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