



# ***Executive Session Papers***

## **Human Rights Commissions and Criminal Justice**

**Marea L. Beeman, Series Editor**

### **Strengthening Relations Between Local Police and Immigrant Communities: The Role for Human Rights Commissions**

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**I**n a cycle that plays out with each wave of newcomers to the United States, the debate over immigration reform has once again captured the attention of the American public and politicians. Since the earliest days of the republic, new immigrant groups have been viewed with suspicion over their appearance, language and cultural differences. In the past Germans, Irish, Italian, Japanese, Chinese and Russian immigrants have been targets of discrimination and scapegoating. In the early part of the 21<sup>st</sup> century, concerns over immigration are being directed toward people coming from Mexico, people coming from Central and South America, and people perceived to be Muslim, including Arabs and South Asians.

While immigration reform remains unresolved at a federal level, anti-immigrant activity haunts towns and cities across the country. Although much of the activity is intended to detect or punish *illegal* immigration, it can be perceived as punishing a much wider community of immigrants. Such activity is carried out in

part by individuals and private groups (e.g., the Minutemen), and in part by public servants, including local police and corrections officers newly vested with powers to enforce civil immigration laws. Tactics being used by public employees to reduce undocumented immigration include stepped up enforcement of federal immigration laws; installation of a fence on the Mexico and United States border; raids at workplaces, homes, and schools; restrictions on access to public services and benefits; and stricter scrutiny of citizenship and immigration documentation.

As with all sorts of discrimination, at the root of anti-immigrant sentiment is often fear: fear and ignorance of people who look different and speak differently from the majority. Developing ease with diversity can take time, and is a process with which human rights and human relations commissions, experienced in intergroup conflict and eliminating discrimination, are ideally suited to help.

Human rights and human relations commissions (HRCs) are governmental entities that have been established in dozens of U.S. cities and counties and almost every state. While they operate under a variety of

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names and grants of authority, and pursue a variety of strategies, they share a common goal of eradicating discrimination and promoting healthier relations among culturally diverse groups.<sup>1</sup> While many of these agencies focus primarily on eliminating human rights violations in housing, employment and public accommodations matters, given appropriate resources, HRCs can fruitfully expand into addressing human rights issues relating to the criminal justice system, including selective local police enforcement of immigration laws, police activity at day-laborer sites, and police engagement with local immigrant gangs.

*Human rights and human relations commissions can work to minimize friction and strengthen relationships between local police and immigrant communities, leading to both more effective policing and greater respect for immigrants' rights.*

This paper sets out ways in which human rights and human relations commissions can work to minimize friction and strengthen relationships between local police and immigrant communities, leading to both more effective policing and greater respect for immigrants' rights. The paper expresses no position on the immigration policy debates. Instead, it seeks to identify issues and provide examples of ways in which human rights agencies and other organizations have worked to ensure that trust exists in communities with immigrant populations between residents and local police. Scores of police departments in this country employ community policing

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<sup>1</sup> Hyo Eun Bang and Kenneth L. Saunders, "A Historical Perspective on U.S. Human Rights Commissions," Prepared for the Harvard Kennedy School Executive Session on Human Rights Commissions and Criminal Justice, May 2007, [http://www.hrcj.org/hrcj/pdfs/history\\_of\\_hrc.pdf](http://www.hrcj.org/hrcj/pdfs/history_of_hrc.pdf)

techniques which depend on relationships of trust between police officers and the communities they serve. Recognizing this essential but sometimes elusive component, the paper is intended to be of use to police departments, human rights commissions, civil rights and immigrants' rights organizations and other relevant governmental and non-governmental organizations.

## **I. Background**

Before turning to a discussion of ways in which human rights commissions can try to help improve police and immigrant community relations, it is useful to briefly review some of the developments giving rise to increased tensions between the two groups.

### *National and Local Legislation Behind Local Police Acting as Federal Immigration Officials*

Since 2002, a growing number of local law enforcement agencies have pursued permission to enforce federal immigration laws, something that became possible in 1996 when Section 287(g) of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) was added to offer eligible local law enforcement officers the opportunity to receive "cross-designation" status to enforce federal immigration laws. Under Section 287(g) local police departments signed agreements with the U.S. Department of Justice known as "Memoranda of Understanding" (MOUs). Under the MOU, the Department of Justice would train local police on how to enforce immigration laws and vest them with the powers to carry out this responsibility. Florida started the first program in August of 2002 and Alabama followed its lead by

implementing a similar program in the fall of 2003. The MOUs are very specific as to what immigration laws local offices can and cannot enforce. For instance, local police officers can only use 287(g) authority when people are taken into custody on suspicion of violating state or local criminal law. They cannot randomly ask for a person's immigration status or conduct immigration raids. Currently, there are 597 officers in 34 states and local law enforcement agencies across 15 states participating in the 287(g) program.<sup>2</sup> However, due to the widespread interest in the 287(g) program by local law enforcement, the U.S. Immigration and Customs Enforcement Agency (ICE) launched a new initiative called ACCESS (short for "Agreements of Cooperation in Communities to Enhance Safety and Security") in August 2007.

ACCESS is an umbrella initiative for various joint immigration enforcement programs and services such as the 287(g) program and Operation Community Shield, a national law enforcement initiative to target alleged noncitizen gang members. ACCESS provides ICE with a venue to enter into different kinds of immigration enforcement agreements with local and state enforcement agencies depending upon the local needs of the agencies. Proponents say the ACCESS programs are needed because of the federal government's lack of action on immigration reform. Opponents worry that training local police to enforce immigration laws will result in racial profiling and will lead to a fear of police among immigrants, both legal and illegal.

While debate continues on how to reform immigration policy at the federal level, the onus for developing and implementing polices that suit the public interest resides

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<sup>2</sup> Fact sheet by Immigration Youth Justice Initiative, Convening January 31, 2008.

with localities. It is fair to say there is no consensus on how best to do this and varying approaches abound in cities, counties and states throughout the country

### ***Mixed Support Among Local Law Enforcement***

Counties can face significant costs for incarcerating undocumented immigrants and communities understandably favor expulsion of undocumented criminal offenders. But the issue of undocumented criminal offenders and their cost to a community is different from the issue of enforcement of civil immigration laws. Not all police executives favor use of local police to enforce federal immigration laws. In 2006, the Major Cities Chiefs Association (M.C.C.), which includes the 57 CEOs of police departments located in metropolitan areas with populations of at least 1.5 million and which employ more than 1,000 officers, issued an Immigration Position Statement that sets out concerns with local enforcement of federal immigration laws.<sup>3</sup> While the statement does not endorse forbidding local law enforcement agencies from enforcing federal immigration laws, it urges them to do so only after balancing factors including limitations on resources, complexity of immigration laws, limitations on enforcement authority, risk of civil liability for immigration enforcement activities and "the clear need to foster the trust and cooperation from the public including members of immigrant communities."

To this last point, the M.C.C. statement notes that major urban areas in the U.S. are

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<sup>3</sup> Major Cities Chiefs Immigration Committee Recommendations For Enforcement of Immigration Laws by Local Police Agencies, June 2006, [http://www.majorcitieschiefs.org/pdfpublic/mcc\\_position\\_statement\\_revised\\_cef.pdf](http://www.majorcitieschiefs.org/pdfpublic/mcc_position_statement_revised_cef.pdf)

home to significant immigrant communities, some that reach as high as 50-60 percent of the population. Local police agencies work to build trust and a spirit of cooperation with immigrant groups, which contain both documented and undocumented individuals. If members of this community worry that contact with police could lead to civil immigration enforcement action, “the hard won trust, communication and cooperation from the immigrant community would disappear. Such a divide between the local police and immigrant groups would result in increased crime against immigrants and in the broader community, create a class of silent victims and eliminate the potential for assistance from immigrants in solving crimes or preventing future terroristic acts.” The full M.C.C. position statement sets out nine points that reflect the organization’s consensus view on local enforcement of federal immigration laws.

***If members of [the] community worry that contact with police could lead to civil immigration enforcement action, “the hard won trust, communication and cooperation from the immigrant community would disappear.”***

Dozens of localities, including New York City, Houston, Texas and Washington D.C., have adopted policies that forbid casual inquiry by government employees into immigration status. The policies of these so-called “sanctuary cities” vary in scope and come into effect through local resolutions, executive orders or city ordinances.<sup>4</sup> The effect of “don’t ask, don’t tell” policies on local police officers is to restrict expansion of their responsibility into enforcement of federal civil immigration

<sup>4</sup> Sanctuary city policies were originally inspired by churches that gave aid to undocumented migrants from Central America who fled from civil war in the 1980s.

law. Some city police departments issue their own special orders, policies and general orders to similar effect. The Los Angeles Police Department follows “Special Order 40,” a police mandate first established in 1979 by former Police Chief Daryl Gates and the L.A. City Council to prevent police from inquiring about the immigration status of arrestees. Special Order 40 forbids LAPD officers from initiating police action “with the objective of discovering the alien status of a person,” and from arresting or booking a person for “illegal entry” into the United States. The mandate was implemented over concerns that without it, innocent undocumented immigrant witnesses and victims would lose trust in the LAPD and would not report crimes for fear of being deported.

### ***A Closer Look at the Tactics: Profiling, Day Laborer Sites, Gangs***

While many local police departments have determined that it is not in their best interest to pursue enforcement of immigration laws, in many communities, even those where officers have not received official cross-designation to enforce immigration laws, police have been encouraged to increase scrutiny of immigration status. In some jurisdictions, complaints have surfaced that police are pulling over motorists in routine traffic stops so as to open the door for questioning about immigration status. Criticism of police pursuing the offense of “driving while brown” has become as common as the complaint over pursuit of motorists who are “driving while black.”

In New Hampshire, police profiling pushed beyond basic traffic stops when two local police departments attempted to drive away undocumented immigrants by charging them with trespassing state borders. The two police chiefs relied on the state’s criminal

trespass law which states: “A person is guilty of criminal trespass if, knowing he is not licensed or privileged to do so, he enters or remains in any place.” If convicted of the misdemeanor trespass charge, undocumented individuals would be deportable.<sup>5</sup> This novel interpretation of the New Hampshire criminal trespass law was eventually rejected by a state judge, who found that enforcement of civil immigration law was the role of the federal government and not the state. The 2006 session of the New Hampshire legislature voted out of committee as “inexpedient to legislate” a bill that would have amended the criminal trespass statute and granted local police authority to enforce federal immigration laws.<sup>6</sup>

Sometimes an overlapping of local law enforcement with immigration law enforcement results from a perceived nuisance or threat by the surrounding community. For example, in some communities, tensions have developed around day laborer sites. Typically located near home improvement stores, these are sites where immigrants, some of whom are undocumented, congregate to seek work from construction contractors. Workers can wait at sites for long periods, prompting public complaints to police about workers who litter, urinate, obstruct traffic and make cat calls at women passers-by. In response, police in some communities have tried to disrupt day laborer sites by charging congregating workers with minor offenses such as jaywalking, littering, blocking the sidewalk, or public urination.

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<sup>5</sup> Michael Powell, “New Tack Against Illegal Immigrants: Trespassing Charges,” The Washington Post 10 June 2005: A01.

<sup>6</sup> “New Hampshire Court Dismisses ‘Trespassing’ Cases Against Immigrants.” Mexican American Legal Defense and Educational Fund. 12 August 2005. 27 August 2005 (link no longer active).

Immigration law also intersects policing efforts regarding gang activity. Effective policing of gang activity has long vexed police departments and the emergence of immigrant gangs adds yet additional challenges. Almost all gangs are identity-based, and some gangs across the country are comprised of immigrant groups, such as Hispanics, Haitians or Asians. Poverty, language barriers, lack of employment opportunities, low-achieving schools, bullying of immigrant youth, lack of community-safety in general, and limited or non-existent after-school programs are factors that directly contribute to the involvement of youngsters, including immigrant youth, into gang activity. For some Hispanic youth and adults, membership in a gang can offer support and protection. While the gang offers protection to gang members, the community can be left unprotected since collaboration with the police, such as identifying gang members suspected of crimes, may result in direct retaliation from the gang. For members of immigrant communities, another deterrent to collaborating with the police is a fear of deportation. People can be reluctant to help in investigations since “mixed-status families” (where some family members have legal citizenship, immigration or residency documents, while other members do not) are common among many immigrant families.

To support the policing of immigrant gangs, the Department of Homeland Security (DHS) primarily funds punitive approaches, such as arresting and deporting gang members, taken by local police departments. According to Paromita Shah from the National Immigration Project, prioritizing harsh police tactics undermines community efforts in addressing gang issues. Immigrant gang culture can be particularly challenging for law enforcement to address through traditional policing strategies given the

gang's particular code of ethics and behavior that intertwine with language and cultural differences imported or adapted from other countries. In addition, gang memberships and structures are complex, and punitive methods may not address the nuances of gang membership, such as the fact that an individual may have once been involved in a gang but has dropped his membership or is trying to exit gang life. In policing gang activity, law enforcement officials may harass and unwittingly antagonize residents of immigrant communities who are not gang members or are only involved in the gangs as immunity from the violence.

## **II. What Can Human Rights and Human Relations Commissions Do to Promote Better Relations Between Police and Immigrant Communities?**

Some immigrants are in the country legally, whether by marriage, or naturalization, or perhaps because they have received political asylum after fleeing war-torn countries. While it can be tempting to stereotype people on the basis of appearance, it is important for police to remember that in all situations they are dealing with individuals: people who may or may not be undocumented immigrants; people who have families, loved ones and a place in their communities. For all of this country's history, immigrants have come here seeking to make a better life for themselves and their families. Popular myths that immigrants commit crimes at greater rates than legal citizens are refuted by evidence that immigrants, as a group, commit fewer crimes than the overall population.<sup>7</sup> Human

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<sup>7</sup> Among all ethnic groups, first generation immigrants are incarcerated at far lower rates than the rest of the population. Incarceration rates increase among second generation immigrants, those who are born and acculturated in the United States,

rights and human relations commissions are ideally suited to help refute these myths and to encourage understanding and integration of newcomers. One of the important ways they can help is in developing constructive relationships between immigrant communities and police. By conducting outreach and sponsoring events to exchange information, human rights commissions can help people understand objectives of public safety and remind police that there are some ways to protect the community that are more likely to engender trust than others.

There are many ways that human rights commissions can work to improve relations between police and vulnerable immigrant communities, but before that work can begin HRCs have important groundwork to conduct. HRCs need to reach out and establish their credibility with both police and immigrant organizations as a resource and, when necessary, as an intermediary. HRCs can meet with police and immigrant groups, identify key areas of shared concern, and develop a project or projects to address the issues identified. Once a relationship of trust exists, it will be much easier for HRCs to respond effectively in moments of crisis, such as in the chaotic aftermath of a federal raid on a workplace that hires undocumented immigrants. The following sections illustrate some of the ways that HRCs have

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especially among the least educated — evidence of downward assimilation that parallels patterns observed for marginalized native minorities. *See* Rubén G. Rumbaut, Roberto G. Gonzales, Golnaz Komaie, and Charlie V. Morgan, “Debunking the Myth of Immigrant Criminality: Imprisonment Among First- and Second-Generation Young Men,” Migration Policy Institute, June 2006, <http://www.migrationinformation.org/Feature/display.cfm?id=403> *See also*, Kathleen Kingsbury, “Immigration: No Correlation with Crime,” TIME, 27 Febr.2008, <http://www.time.com/time/nation/article/0,8599,1717575,00.html>

worked to strengthen police relations with immigrant communities around the country.

### ***Day Laborer Hiring Sites***

There is an increasingly common scene in towns across America: groups of men dressed casually and in work clothes, standing on sidewalks or parking lots, quick to run towards approaching vehicles in desperate search for work.<sup>8</sup> Day laborers are an especially vulnerable population, perceived to be the very stereotype of poor immigrants, presumed to be without legal immigration documents, speaking limited English, and surviving in the margins in the informal economy.<sup>9</sup> Day laborers come from many cultural and racial backgrounds but the most visible are Latino men, and a misguided stereotype of the impoverished Latino immigrant who is likely to commit crime persists. In fact, immigrants themselves are often victims of crimes, yet are commonly afraid to report victimization

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<sup>8</sup> A seminal 2006 national study of day laborers reveals the following: “Once contained to ports-of-entry cities along the East and West coasts, day labor is now a nationwide phenomenon, spilling into small and rural towns throughout America, including the South and Midwest. The total count of these workers is actually one-tenth to one-20th the size cited by anti-immigration forces. *On The Corner: Day Labor in the United States*, by Abel Valenzuela, Jr., Nik Theodore, Edwin Meléndez, and Ana Luz Gonzalez (January 2006).

<sup>9</sup> “Just over three-quarters of day laborers are undocumented immigrants, meaning that the share of American citizens working in day labor is much higher than commonly supposed and that day laborers account for only a small fraction of the estimated 7- to 11-million undocumented immigrants in America today.” “Wage theft is the most common abuse suffered by day laborers, with nearly half of all workers having been denied payment in the two months prior to the survey.” *On The Corner: Day Labor in the United States*, by Abel Valenzuela, Jr., et al., *ibid*.

to police.<sup>10</sup> Day laborers are often easy marks for police profiling, employer exploitation, anti-immigrant scapegoating<sup>11</sup> and bias-motivated violence, as the famous Farmingville (NY) and lesser known San Francisco cases illustrate.<sup>12</sup>

Pressed by local constituents, governments have endured two types of complaints. The first type relate to conflicts between day workers and nearby businesses or residents over the use of space. The second type are ideologically-driven complaints that derive from the view that all day laborers are

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<sup>10</sup> The facts that many day laborers are paid in cash and do not have bank accounts make them particularly susceptible to burglary and robbery. A recent book points out that immigrants are themselves often more likely to be the victims of discrimination, stigmatization, and crime rather than the perpetrators. Abel Valenzuela Jr., and Ramiro Martinez Jr. (editors and contributors), *Immigration and Crime: Race, Ethnicity, and Violence* (NYU Press) (2007).

<sup>11</sup> The anti-illegal immigration group named “Minutemen” engaged in a campaign calling for public protests against day laborers hiring sites in Alabama, New York, and Tennessee, as well as Arizona and California. Terry McCarthy, “Stalking the Day Laborers,” *Time* magazine, November 28, 2005.

(<http://www.time.com/time/magazine/article/0,9171,1134748,00.html>) In Laguna Beach, California, the public was exhorted to protest the day laborer site and to ‘bring a baseball bat.’

<sup>12</sup> In the town of Farmingville, Long Island, two young white men with ties to racist groups were convicted of hate murder for luring two day laborers, Israel Perez and Magdaleno Escamilla, to a basement under pretext of a job, and then brutally stabbing and beating them to death. The crime, which occurred in the summer of 2000, drew national media, and became the subject of an award-winning PBS documentary.

(<http://www.pbs.org/pov/pov2004/farmingville/about.html>). More recently, in 2008, a wave of attacks against day laborers in San Francisco was reported (Matt Smith, “Epidemic of Violence Against SF Day Laborers,” *SF Weekly*, January 23, 2008, (<http://www.sfweekly.com/2008-01-23/news/epidemic-of-violence-against-sf-day-laborers>)).

‘illegal aliens,’ that they are ‘an eyesore’ causing blight in the neighborhood.

These local authorities have sought to address the issues related to day laborer sites by resorting to two distinct approaches. Local officials have turned to local police or federal immigration authorities to attempt to scare off or arrest the workers in the hopes that the day laborers will ‘go away.’ Some jurisdictions pressure police to use a wide range of tactics, from stern warnings to repeated threats of arrest and even mass arrests, in order to dissuade day laborers from congregating. Some have dusted off languishing loitering ordinances in order to rid the streets of day laborers. For instance, in Woodbridge, VA, police use trespassing and nuisance ordinances to arrest day laborers searching for work at sites such as Home Depots and 7-11 convenience stores.

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Still other cities and counties have created new laws to criminalize day laborers’ actions soliciting employment from public sidewalks, and then have had to spend large sums of public funds to defend the ordinances, often unsuccessfully, against lawsuits based on their unconstitutionality as violations of basic speech rights or equal protection/due process rights.<sup>13</sup>

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<sup>13</sup> For example, in Herndon, Va., an anti-solicitation ordinance that targeted immigrant day laborers was struck down by a circuit court judge who ruled that it violated the First Amendment. Eunice Moscoso, “US Courts Strike Down Immigration Ordinances,” Cox News Service, September 18, 2007.

But even repeated enforcement actions by federal immigration officials and local police rarely if ever result in the elimination of a day laborer hiring site. This may be because there are usually some number of day laborers who have a legal right to remain in the country, and the demand for day laborers remains steady: casual day labor fills a persistent niche in the local economies. In fact, the futility of what could be called the “suppression approach” seems to eventually lead most local governments to a more effective approach. It also led the then-U.S. Immigration and Naturalization Service (INS) to support the Los Angeles County Commission on Human Relations (LACCHR) to do a national study on day laborer hiring sites that examined the experiences, effectiveness and viability of the two approaches. The LACCHR, which has assisted cities, police, local businesses, residents and day workers in coming to agreements that have greatly reduced conflicts at many hiring sites in Los Angeles County, applied its expertise to producing the publication, *Day Laborer Hiring Sites: Constructive Approaches to Community Conflict*.<sup>14</sup> The document sets out strategies which have proven successful and identifies practices that have been counter-productive to solving community unrest over day laborer sites.

The publication chronicles effective approaches five communities across the country have taken to reducing citizen complaints about day laborer sites, including specifics on the resources required (staffing, funding, ordinances, etc.). The communities employed practical problem-solving strategies involving day laborers, their

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<sup>14</sup> Jill Esbenshade and Robin Toma, “Day Laborer Hiring Sites: Constructive Approaches to Community Conflict,” Los Angeles County Commission on Human Relations, 2001 (downloadable at [www.lahumanrelations.org/publications](http://www.lahumanrelations.org/publications))

representatives, local elected officials, and concerned local businesses and residents. While most of the effective approaches entailed strong community involvement coupled with common sense solutions (e.g., installation of adequate trash receptacles, lighting and bathroom facilities, and situating the sites where they cannot interrupt traffic flow), they all entailed involvement of local police, too. The report notes that support of local police is key because they are often the parties who most want to see a solution. Police officers are the people who receive complaints about day laborer sites, and most would much rather spend their time addressing serious crime than monitoring street corners. "Not only are the police stakeholders in this issue, but their support can have a lot of influence with local residents and businesses. Police support can also give workers more confidence."<sup>15</sup>

In 2007, Portland, Oregon Mayor Tom Potter, who is a former police chief, and a group of approximately 30 community members initiated a process to gain community consensus and to acquire a site to create a centralized hiring site for day laborers. Potter hired a consultant to lead the work of the broad-based advisory committee in meeting with citizens and collecting input. The project had to overcome resistance from the conservative watchdog group Judicial Watch and from community members worried about the loitering, littering and safety issues arising from the informal daily congregation of more than 100 individuals seeking work. The city committed \$200,000 to open a site that will address these and other concerns. Equipped with a modest office, a tent to

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<sup>15</sup> Jill Esbenshade and Robin Toma, "Day Laborer Hiring Sites: Constructive Approaches to Community Conflict," Los Angeles County Commission on Human Relations, 2001, p. 9.

provide shelter from sun and rain, and several portable toilets, the center, expected to open by mid-2008, will use a lottery system to give workers fair odds of employment. A local non-profit group, Voz: Workers' Rights Education Project, will run the hire site.

In Montgomery County, Maryland, county officials partnered with the immigrant advocacy group CASA de Maryland Inc. to create a work center in the city of Herndon, overcoming significant hurdles to build support for the center, find a location, and fund the construction. The center provides education programs and offers vocational, English language and legal training services to day laborers and others.<sup>16</sup>

In 2006, the city of Burbank, (located within Los Angeles County), California adopted a proactive stance in anticipating the foreseeable day laborer issues that would arise from the building of a Home Depot in their city. After some opposition to the opening of the center, the Burbank City Council approved the Home Depot's day labor center on January 11, 2006, with the proviso that the company provide \$85,000 to fund a hiring center.<sup>17</sup>

These and other communities, often through combined efforts of government and non-governmental agencies, including human

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<sup>16</sup> See Alex Welsch, "Counties and Immigrants: Some Recent Resolutions, Ordinances and Initiatives," a National Association of Counties Issue Brief, Oct. 2007, p. 4, <http://www.countyengineers.org/Template.cfm?Section=publications&template=/ContentManagement/ContentDisplay.cfm&ContentID=25632>

<sup>17</sup> "Burbank Approves Home Depot Store's Day Labor Center," NBC 11 Jan.2006. <<http://www.knbc.com/employment/6000892/detail.html>> In one version of the Senate immigration bill in 2007, cities would have been prohibited from compelling Home Depot to contribute funding for the day laborer hiring site on their property. The bill failed to pass in June 2007.

rights organizations, have made day laborer sites safer and more attractive for the workers and employers by developing a set of rules for usage of the site, and installing bathrooms, shelter, trash cans and lighting. These day laborer centers provide an organized, informal or formal work center for employers and employees alike.<sup>18</sup> The rules and facilities eliminate the vast majority of complaints arising over the use of space.

### ***Gang Violence***

Another area in which the Los Angeles County Commission on Human Relations (LACCHR) has been active is in working to combat gang violence and hate crimes. The commission works alongside police to ensure safe neighborhoods and act as a mediator in conflicts between police and immigrant communities and tensions between racial groups. The commission also collaborated with key local organizations, schools and police to talk about the important issues at various neighborhoods in the County. Some neighborhoods had lighting, parks and services badly in need of repair, and needed to develop an approach to police efforts in gang intervention. In mid-2007, the LACCHR hired a respected local activist as its Racialized Gang Violence Prevention Coordinator to lead efforts in creating a new model for inter-ethnic youth and gang violence prevention.

A good example of police/community collaboration around gang violence reduction is the Washington, DC Gang Intervention Partnership (GIP). This effort came about as a response to a rash of violent gang-related incidents in the summer 2003 in the District of Columbia. It illustrates how

community-based organizations and local police can work together on prevention and intervention strategies to keep youth from getting into trouble in the first place and helps youth already affected by violence find a path to safety and productivity.

The GIP is a localized intervention that is able to coordinate among all of the community stakeholders. It's a true partnership between DC's Metropolitan Police Department (MPD), other government agencies, community leaders, parents and community based organizations, all with the goal of reducing gang violence. The Partnership was founded on five core strategies:

1. Conduct intensive and targeted police work and build strong police/community partnerships.
2. Provide targeted outreach to gang involved youth and their families.
3. Educate families and community members.
4. Improve and expand access to services critical to diversion and family strengthening.
5. Build capacity.

The GIP employed five objectives to guide its work:

1. Weekly meetings between partners.
2. Use of critical incident emergency protocol.
3. Involvement of targeted outreach teams, including street based outreach .
4. Use of "cool down" groups.
5. Reduce gang-related school suspensions.

In addition, the GIP law enforcement engagement was founded on three principles:

1. Intelligence: identifying gang members.

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<sup>18</sup> Stephanie Bohon. "Georgia's Response to New Immigration." *Immigration's New Frontiers*. Ed. Greg Anrig Jr. and Tova Andrea Wang. 96.

2. Enforcement.
3. Prevention and intervention: school staff and administrators working with students on ways to prevent gang-related crimes.

The results are impressive. As of March 2008, there had been no Latino gang-related homicides in Washington, DC since October 9, 2003. A specialized Latino Gang Intelligence Unit was permanently created in the heart of the DC Latino community. Although a human rights commission was not involved in the development or implementation of the GIP, it is easy to see how an HRC's participation and involvement in this kind of partnership would benefit the end result. In other jurisdictions replicating DC's GIP model, as a neutral party, an HRC could be a catalyst for even faster-paced implementation.

### ***Anti-Muslim and Anti-Arab Sentiment***

Following the September 2001 terrorist attacks, a barrage of anti-immigrant sentiment and violence was directed at individuals perceived to be Muslim, including Arabs and South Asians. Incidents occurred throughout the country, including, of course, New York City. Between October 2002 and April 2003, the New York City Commission on Human Rights distributed a multi-language survey to Muslims, Arabs and South Asians probing whether discrimination against them had intensified following the 9/11 incidents. A report tallying the findings showed that 69 percent of respondents believed they were the victim of one or more incidents of discrimination or bias-related harassment in the aftermath due to their ethnicity. Bias-related harassment was the most common type of discrimination reported. The harassment was primarily verbal but also included menacing, threats and physical

assault. Employment discrimination, including being told not to wear traditional headdresses to work, discrimination at public accommodations and housing discrimination were also reported.<sup>19</sup> Working on the project helped the Commission forge new connections with these communities. The Commission used the findings to help shape future education, prevention and enforcement efforts. In subsequent years, anti-Muslim sentiment and behavior have calmed significantly in New York and elsewhere. While we hope that calm continues, the events of September 11 put us all on notice that future schism-provoking situations are possible, whether they occur on U.S. soil or abroad. Human rights commissions can prepare for negative reactions from future terrorist incidents taken against Muslims, Arabs and South Asians in the U.S. by forging ties with relevant community organizations. They can encourage similar relationship building between police and local communities. After 2001, many police departments developed plans to prevent backlash following a future provocative incident. Human rights commissions can inquire whether these plans are in place, and whether they need updating. A report prepared by Human Rights Watch chronicled the uptick in Anti-Muslim and Anti-Arab violence following September 2001. It also examined constructive steps taken to combat future incidents, such as backlash planning, police deployment, bias crime tracking, prosecution and outreach to Arab and Muslim communities.<sup>20</sup> The

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<sup>19</sup> See Discrimination Report Released, The Commission's Quarterly Newsletter 2003 Summer/Fall Edition, page 4. <http://www.nyc.gov/html/cchr/html/newsletter/summerfall4.html>

<sup>20</sup> Human Rights Watch, "We Are Not The Enemy: Hate Crimes Against Arabs, Muslims, and Those Perceived to be Arab or Muslim after September 11," Nov. 2002 <http://www.hrw.org/reports/2002/usahate/>

report is a valuable source of ideas as many of the techniques highlighted involve types of work with which HRCs are familiar.

### ***Police and Community Partnership***

A number of human relations and human rights commissions have formed committees that seek to improve police-community relations. For example, the Lancaster County, Pennsylvania Human Relations Commission Police and Community Committee works to promote a better-informed, more responsible public and to foster a positive relationship between police and community. Members of the Committee include representatives from the various police departments serving Lancaster County communities, Human Relations Commission liaisons, and community organization representatives. This Committee oversees another entity, the Lancaster CommUnity Response and Event Team (REACT), which is an early intervention group created to respond immediately when an event or series of events begins to strain relations between police and any identifiable segment of the community or neighborhood. REACT was formed in 2003 at the recommendation of the Lancaster City Council and is comprised of representatives of the community, police, community churches, racial and or ethnic communities and others from throughout the county.

The Lancaster County Police and Community Committee acknowledges commendable policing work by sponsoring an annual "Police Appreciation Luncheon" at which special awards of recognition are made to officers nominated from different Lancaster County public safety agencies. In addition, the Human Relations Commission hosts an annual Community Fest that brings

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together first responders, social service agencies and the community for a day of food, fun, music, and understanding.

A similar model can be found in Mesa, Arizona. After becoming the city's chief of police in 2006, George Gascón introduced Police Chief Community Forums. The Community Forums were established to open the lines of communication between residents of Mesa and the police department to focus on public safety issues and partner with community leaders and stakeholders in developing solutions to multi-faceted community concerns. Gascón brought the idea of the community forums to Mesa from Los Angeles, where he worked for many years with the Los Angeles Police Department. The LAPD has had a Hispanic community forum in place since 1988. Mesa has nine Police Chief Community Forums:

- African American
- Business
- Clergy
- Disabilities
- Hispanic
- Human Rights
- Native American
- Senior
- Youth.

The Forums meet monthly and have varying levels of activity. The Hispanic Forum is one of the most involved and it played a crucial role in quelling community concerns following a fatal police shooting which, at first blush, appeared to echo a divisive police shooting from 2003. When a young Hispanic man wielding a knife was shot to death by Mesa police in late 2007, residents were instantly reminded of the fatal shooting of 15-year old Mario Madrigal, Jr. Madrigal's parents had summoned police, worried that their son, who was wielding a knife, was suicidal. Fearing the boy was

directing the knife at them, police shot and killed Mario as his parents stood nearby in horror. Although the police department later cleared the officers from wrongdoing, the Hispanic community vigorously protested at the time and continues to commemorate the event each year as being emblematic of a police department that is ill-equipped to engage with mental-health crises and Mesa's growing Latino community.

In the wee hours of the morning following the 2007 incident, Chief Gascón phoned members of the Hispanic Forum to communicate what he knew and to assure them that the incident was being thoroughly investigated. The next day, the Chief met with representatives from all of the forums to provide information on what he knew so far and to share understanding of police procedure. Word quickly reached the community from the forum members, and perhaps helped prevent the type of protracted community protests that followed the 2003 shooting.

Mesa does not have a human relations commission. The Mesa and Lancaster police-community forums are an effective way for police to reach out to particular community groups, and are a model that existing HRCs can point out to their own police departments.

### ***Responding to Excessive Use of Force***

Even in communities with relatively good police-community relations, tragic situations involving excessive use of force by police sometimes occur. The aftermath, particularly in the case of a perceived unjustified police killing of a minority community member, can rip apart a community. Columbus, Ohio provides a prime example of the unique convening and reconciliation powers human

rights commissions can summon to respond to such moments of crisis.

In December 2005, county sheriffs shot and killed Nasir Abdi, a mentally ill man who they had intended to escort to a psychiatric hospital, where he was to receive court-ordered medication. Fearing he was threatening them with a knife, deputies shot Abdi, a 23-year old member of Columbus' sizeable and tight-knit community of Somali refugees. Hundreds of people convened at City Hall and the Police Department to protest the shooting as an extreme example of what was perceived as routine police misconduct against the Somali community.

Previous police shootings had prompted the Columbus Community Relations Commission (CRC) to design a mechanism to respond constructively to such a crisis. Abdi's death became the occasion for the first mobilization of the response, known as a Community Intervention Team (CIT). Under the CIT process, the CRC convened five law enforcement officials and nine representatives from Columbus' Somali community in a series of meetings intended to develop deeper understanding on both sides: of police procedure by Somali residents and of cultural differences by Columbus-area police. The parties eventually developed and signed a 17-point agreement specifying actions that the Somali community and the police would take in order to relieve the anti-police feelings that erupted in the aftermath of the shooting. The Commission monitored the participants' compliance with the CIT agreement.

The CIT process can be tailored to work for any given conflict between police and a community group, not just this single incident. It is designed primarily to guide the community reconciliation and healing process. It is not meant to limit the

accountability of those responsible for mistreatment of community members or for institutional failures that may have allowed the mistreatment to occur. Similarly, in designing the CIT process, the Commission had no intention of interfering with a victim's ability to seek individual redress for a rights violation nor did it want to slow institutional reform that might help prevent the recurrence of these tragedies.<sup>21</sup>

### ***Racial and Ethnic Profiling***

If questioned, most law enforcement officers would agree that racial profiling is not a desirable practice, or something that they intentionally engage in. Further, from a practical standpoint, it can make policing work more difficult than necessary.

Many state and local police departments in the United States collect data on traffic stops and other interactions between police and civilians to determine whether patterns suggesting racial or ethnic profiling exist. Some of these collection efforts are undertaken voluntarily while others are required under legislation or court order. One of the ongoing frustrations of police departments that collect the data is what to do with it. The New York City Police Department collected data on pedestrians who were stopped because of suspected criminal behavior during 2006 (stop, question and frisk practices). The raw data suggested large racial disparities: 89 percent of the stops involved nonwhites; 45 percent of black and Hispanic suspects were frisked compared with 29 percent of white suspects; and when frisked, white suspects were 70

percent likelier than black suspects to have had a weapon on them.

The data raised critical questions about whether racial bias was at play in officers' decisions to stop pedestrians and whether officers were more intrusive when stopping nonwhites. Seeking answers, the NYPD reached out for assistance from the RAND Corporation. Subjected to three types of analysis, researchers found that the apparent vast disparities in the raw numbers were misleading: legitimate factors could explain, for example, much of the difference between the frisk rate of black and white suspects. Still, RAND offered the NYPD recommendations for improved interactions between police and pedestrians during stops and to improve the accuracy of data collected about the stops.<sup>22</sup>

In Palo Alto, California, at the request of the City Council, the Palo Alto Human Relations Commission reviewed data collection techniques used by the Palo Alto Police Department to detect racial profiling in stops, searches and arrests. The police chief initiated the data collection after the Human Relations Commission received repeated complaints at its monthly community meetings over police tactics. The police department's officers document each traffic or other stop they make by gender, race, reason for the encounter, its location and outcome. The data is shared with the Human Relations Commission for quarterly review. The point of the data collection is to ultimately eliminate racial profiling but questions arose over whether the data is meaningful. After studying the matter, in January 2008 the Commission recommended to the City that the police department continue collecting data, but that it refine its analysis by producing one rather

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<sup>21</sup> For a full account of the CIT process see Liza Khan, "Building Trust After a Police Shooting: Community Intervention Teams in Columbus, Ohio," Prepared for the Harvard Kennedy School Executive Session on Human Rights Commissions and Criminal Justice, August 2006, [http://www.hrcj.org/hrcj/pdfs/columbus\\_cit.pdf](http://www.hrcj.org/hrcj/pdfs/columbus_cit.pdf)

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<sup>22</sup> Greg Ridgeway, "Analysis of Racial Disparities in the New York Police Department's Stop, Question, and Frisk Practices," Rand Corporation, 2007.

than two annual reports. Concluding that they lack adequate benchmarks on what constitutes profiling in Palo Alto, the police chief and city are investigating possible outside research assistance.

Efforts such as those in Palo Alto and New York City help police build legitimacy in the public eye. Collection of data alone is meaningless unless it is also analyzed and results are acted on. Beyond establishing legitimacy that they are proactively assessing policing tactics, police departments can build relationships of trust with affected communities in seeking to share information on how they are responding to empirical and analytical data on their practices. Human rights commissions can be well positioned to prompt this sort of critical inquiry.

Racial profiling was identified as a problem in Kansas after a study released in 2003 showed that state troopers were three times as likely to stop black and Hispanic motorists than white ones. A 2005 bill enacted to address that problem, among other things, permits citizens to file complaints over suspected police profiling based on race or ethnicity with the Kansas Human Rights Commission.<sup>23</sup> Beyond this enforcement capacity, the Commission seeks to assist law enforcement agencies and citizens in understanding and implementing Kansas' racial and other profiling law. The

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<sup>23</sup>See KSA §22-4611 The law requires Kansas law enforcement agencies to report racial profiling information to the state attorney general's office annually. Complaints over the law's teeth have arisen, as in 2007, it was found that only one out of three police offices was complying with that requirement. "Racial Profiling: Kansas Police Agencies Honor Reporting Law Mostly in the Breach," *Drug War Chronicle*, Issue 497, 10 Aug. 2007.

agency's Racial and Other Profiling Administrator, who has experience in police work, has trained hundreds of law enforcement officers and numerous citizens groups about the law's requirements.

Many human rights commissions conduct training for police departments to develop awareness and sensitivity around cultural and racial diversity. Incorporating results from a police department's racial profiling data is one thing to consider when designing the curricula for training and outreach.

### ***HRC Reaction to State and Local Government Action on Immigration Issues***

The human rights commissions in at least two jurisdictions have linked tougher scrutiny of citizenship by police and other government personnel as having a negative impact on the jurisdiction's overall economic and civic health.

#### ***Prince William County***

In July 2007, officials in Prince William County, Virginia enacted a resolution that requires county police to enquire into the citizenship or immigration status of detainees who officers suspect might be in violation of federal immigration law.<sup>24</sup> According to the resolution, any detainee found to lack proper documentation is to be turned over to federal authorities. The resolution also seeks to curb access to certain public benefits by undocumented immigrants by requiring county personnel to request citizenship or status documentation from individuals seeking federal, state or local public benefits or services. (The resolution reportedly does not deny access to schools and other legally mandated services.)

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<sup>24</sup> See Prince William County Board of County Supervisors July 10, 2007 Resolution, <http://www.pwcgov.org/docLibrary/PDF/006881.pdf>

After holding public hearings on the matter, the Human Rights Commission in Prince William County, in September 2007 Virginia produced a report reviewing the effects of the resolution.<sup>25</sup> At the hearings, immigrants and minorities expressed fear that the proposed policies would result in disproportionate stops by police and other forms of discrimination. The Commission's report points out that the resolution's directives will lead to discrimination unless every resident of Prince William County is asked to produce legal residency at all county service points, "including the library, zoning enforcement and animal control, to name just a few." It notes that the policies will likely have a negative impact on legal immigrants and native-born Americans who are burdened with being profiled. The report documents that in the months following enactment of the resolution, protest marches, attempted fire bombings, and attacks on free speech created a climate of fear and mistrust for both legal immigrants and native-born Americans alike. Noting that the policies will exert a negative impact on the county's tax base, the HRC advised county supervisors to objectively assess the cost of implementing the new policies compared to the current costs of providing services to undocumented immigrants.<sup>26</sup>

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<sup>25</sup> Prince William County Human Rights Commission, "Subcommittee Report Reviewing the BOCS Resolution on Immigration," 28 Sept. 2007.

<sup>26</sup> In October 2007, the Prince William Board of County Supervisors further tightened the anti-illegal immigration policy, directing police officers to check the legal status of crime suspects, whether or not the crime was serious enough to warrant arrest, if they thought the person might be in the country unlawfully. In April 2008, with the county jail overflowing with detainees awaiting transport by the understaffed ICE, county supervisors modified the policy and directed police officers to question criminal suspects about their immigration status only following an arrest. Kristin Mack, "Pr. William

### *Lancaster, PA*

In Lancaster, Pennsylvania, the City Council passed a resolution urging the rejection of immigration reform efforts that criminalize individuals because of their immigration status.<sup>27</sup> The City of Lancaster's resolution was put in place in part as a reaction to a Hazleton, Pennsylvania measure, which punishes local businesses and landlords who give work or shelter to illegal immigrants. Under Hazleton's "Illegal Immigration Relief Act," anyone who hires an illegal immigrant or rents an apartment to one faces the loss of their business license and thousands of dollars of fines. It also requires everyone in Hazleton who rents an apartment to go to City Hall with a birth certificate, passport, or other documentation to show that they are in the country legally. The names can then be checked against a federal database to determine their immigration status. A federal judge temporarily stopped the law from being enforced until its legality was decided in court, but many undocumented immigrants reportedly left before the court ruled.<sup>28</sup>

In contrast, as discussed earlier, the Lancaster County Human Relations Commission has introduced initiatives that seek to make immigrants feel welcome. The Commission's Police and Community Committee strives to strengthen police-community relations by maintaining a liaison with police departments in the county, participating in human relations-

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Softens Policy on Immigration Status Checks," *Washington Post*, April 30, 2008, p. B1 <http://www.washingtonpost.com/wp-dyn/content/article/2008/04/29/AR2008042902990.html?sub=new>

<sup>27</sup> Council Resolution No. 6-2007, <http://www.co.lancaster.pa.us/lancastercity/cwp/view.asp?A=672&Q=584692>

<sup>28</sup> CBS News 60 Minutes, "Welcome To Hazleton, One Mayor's Controversial Plan To Deal With Illegal Immigration," 19 Nov. 2006.

oriented training programs and assisting in the development of programs to improve police-community relations. A brochure for the committee explains:

A guiding principle of the Committee shall be the belief that impartial and efficient law enforcement depends upon cooperation and understanding between the public and police. A primary aim of the Committee is to promote a better informed, more responsible public and to assist in developing channels by which police and citizens can communicate and exchange their concerns.<sup>29</sup>

The sentiment neatly sums up the rationale for human rights commissions to become involved in immigrant community-police relations.

### ***Culturally Sensitive Policing and Language Issues***

Communication between local police and the community is a critical tenet of public safety. As community demographics change local police departments need to adjust to these changes. Community new-comers bring differences in culture, language, and behavior and it is important that local police understand what these differences are and familiarize themselves with the community. In particular, language barriers between police and community members can make policing even more challenging than normal. The inability to respond to a 911 call, or to follow a lead in an investigation, or the lack of communication with witnesses or victims, can delay and affect the outcome of an investigation. Human rights commissions can help bridge the language gap between the community and law enforcement. For example, the City of St. Paul Department of

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<sup>29</sup>[http://www.co.lancaster.pa.us/lanco/lib/lanco/LC\\_POLICE\\_COMMUNITY\\_BROCHURE-final.pdf](http://www.co.lancaster.pa.us/lanco/lib/lanco/LC_POLICE_COMMUNITY_BROCHURE-final.pdf)

Human Rights, in partnership with the Saint Paul, Minnesota branch of the NAACP, developed cards printed with information on what to do if pulled over by a police officer. The cards are prepared in English, Hmong, Somali, Oromo and Spanish languages and are distributed throughout the community. And as part of its city's New Americans Program, the Columbus, Ohio Community Relations Commission seeks out the needs of communities where English is not the primary language spoken and then arranges sessions to educate members of the particular community about various city and county services. Programs focusing on law enforcement have included demonstrations on what to do if a police officer pulls you over in a traffic stop and a demonstration of police use of TASERs.

These bridge-building approaches can compliment other technological solutions police departments might pursue in communicating with non-English speakers, such as telephone language translation services or the handheld "phrasealator" devices that officers in Los Angeles use.<sup>30</sup>

### **III. Conclusion**

In sum, there are many ways that human rights commissions and human relations commissions can work to improve relations between police and immigrant communities. First and foremost, a human relations commission director must cultivate a relationship with the local police department. Once established, that relationship can open the door to an ongoing collaboration and partnership on multiple issues of shared concern.

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<sup>30</sup>Developed by the Pentagon for U.S. soldiers serving in Iraq and Afghanistan, the phraselator device can broadcast thousands of pre-recorded phrases in dozens of different languages.

As the director of an HRC, if you don't already have a working relationship with the chief of police, develop one. Improving immigrant and police-relations is just one area that human rights commissions and police departments can discuss; there are numerous areas of potential collaboration.<sup>31</sup> It is important to approach a police department seeking a positive relationship to reach shared goals, such as community harmony and trusting police-community relationships. Police chiefs will want to work with you if they feel that what you offer has value to them and does not make their jobs more complicated. If, for example, you are hoping that police officers become more visible and accessible to immigrant communities, offer a specific strategy. Suggest, perhaps, that officers attend particular community meetings, where with the help of translators they can share goals on public safety while receiving information from community members on cultural differences or fears of police.

***Improving immigrant and police-relations is just one area that human rights commissions and police departments can discuss; there are numerous areas of potential collaboration.***

Human relations commissions also need to reach out and establish their credibility with immigrant organizations. Bridge-building may first be needed to get them to the table with police, but again, once police understand the depth of knowledge and community ties human rights organizations

have, there are likely to be multiple areas of shared concern and potential collaboration. The next step will be identifying issues of concern, followed by development of a project or plan to address them.

Finally, don't keep these plans a secret from the executive and legislative branch members in your jurisdiction! Human rights and human relations commissions often struggle for adequate resources. Receiving public endorsement from a police department about the value of collaborative work with its local human rights organization on immigrant relations and other initiatives that promote community stability can be highly persuasive to funders.

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<sup>31</sup> For example, see two papers from this series: Increasing Diversity in Police Departments: Strategies and Tools for Human Rights Commissions and Others (October 2006) and Building Trust After a Police Shooting: Community Intervention Teams in Columbus, Ohio (August 2006), which may be downloaded from The Executive Session website: <http://www.hrccj.org/hrccj/publications.html>

## About the Series

*Executive Session Papers: Human Rights Commissions and the Criminal Justice System* is a series of papers and case studies examining ways to expand the role of human rights and human relations commissions in addressing issues of discrimination in U.S. criminal justice systems.

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## About the Project

The Kennedy School of Government's **Executive Session on Human Rights Commissions and Criminal Justice** convenes human rights, civil rights and police leaders from across the United States in a series of discussions about how to expand the role of human rights and human relations commissions in addressing issues of discrimination in U.S. criminal justice systems. In addition, the project aims to strengthen the ways that state and local governments respond to violations of the rights of people involved with the criminal justice system by documenting innovative work of individual commissions and conducting research on emerging practices.

Human rights commissions—in some cases known as human relations or community relations commissions—have various levels of authority to enforce civil rights laws and human rights standards, particularly those prohibiting discrimination and promising equal justice. Many also actively work to reduce and defuse inter-group conflict.

Human rights violations in the criminal justice context can take many forms. Bias crimes, and failure of law enforcement to investigate them; police mistreatment of minority groups, including racial profiling or the use of excessive force; and systematic failure to recruit minorities into law enforcement agencies: all of these forms of discrimination not only harm individuals directly involved but also victimize whole groups of people, straining communities sometimes to the breaking point.

The Executive Session, which runs from January 2006 through August 2008, employs a combination of rigorous discussion, empirical research, practical innovation and professional mobilization to expand the work of the commissions. Harvard faculty and staff facilitate the group's discussion and research. The project draws inspiration from the work of human rights commissions and ombudsmen around the globe. However, the focus of the program remains domestic, filling a peculiarly American gap in the available institutional mechanisms for redressing human rights violations related to crime and justice.

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