# Community Trust Ordinance Analysis Report

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## Introduction and Executive Summary

At the City Council meeting on May 16, 2017, City staff was directed to provide an analysis of a proposed Community Trust Ordinance (CTO). Research and analysis were conducted by a cross-functional team representing Social Sustainability, Police Services, City Manager's Office, Human Resources, Communication and Public Involvement, and the City Attorney's Office.

Methodologies included surveying 20 internal departments to ascertain what public benefit programs the City offers that collect lawful status verification; reviewing procurement, contractor, human resource policies and the Fort Collins Police Services (FCPS) employee manual and policies; analyzing differences between the CTO and sanctuary city status; researching other Colorado jurisdictions' immigration policies; and analyzing how the proposed ordinance aligns with our organizational values and strategic objectives.

In addition, staff met with several community stakeholders, including Colorado State University, Poudre School District, Fuerza Latina, the Islamic Center and more in order to gain deeper insights into issues facing undocumented, immigrant, and mixed-status family community members.

What we learned:

- There are between 3,000 and 4,000 undocumented people living in Fort Collins according to the Center for Migration Studies (2016) based on extrapolations from 2015 census data.
- Approximately 3,200 children under 18 live in mixed-status homes.
- Fostering a more inclusive and welcoming city for undocumented and immigrant community members aligns with our organizational values and strategic objectives.
- Immigration issues that are in the national news, such as communication with ICE, immigration detainers and ICE agents detaining people who show up to court, do not currently appear in the City but are causing concern and anxiety amongst immigrant populations in the City.
- City programs that offer a public benefit are required to request lawful status because of state or federal regulations, unless exemptions exist.

- Many undocumented people are not currently living fully participatory lives in the community out of fear of being detained and/or deported **(see Attachment 1)**.
- Some are not reporting crimes to Police Services when victims or witnesses of crimes, including crimes against their own children.
- Undocumented people report accessing fewer human services, as well as programs offered by the City (e.g. Recreation), for either themselves or their (often times documented) children.
- In meetings with stakeholders, they report experiences of disparity in how crimes against immigrants are responded to by Police Services (e.g. timeliness, designation of bias-motivation).
- Several current Police Services policies align with the proposed CTO, including that officers must have reasonable suspicion an individual is undocumented prior to checking immigration status.
- Some Colorado jurisdictions have established trust with undocumented and immigrant populations via resolutions that demonstrate solidarity and inclusion **(see Attachment 2)**.
- Chapter 13 of the Municipal Code does not include citizenship status as a protected class.

While it is a criminal violation to enter the country illegally, it is not a criminal violation (rather a civil infraction) to remain in the United States without complying with immigration laws. It is a civil violation, the consequence of which is deportation. Most often an undocumented community member will fall into the civil violation category, not the criminal one. This is a distinction worth noting as the City works towards fostering an inclusive, welcoming community where all community members feel valued, safe and affirmed.

Although recommendations are outside the scope of this analysis, potential next steps are outlined at the end of the report, including opportunities to strengthen service provision to the immigrant community. The report also recognizes a need to engage more with immigrant community members in order to better understand concerns, gaps and identified needs to help mitigate existing fears and build more trust between the City and undocumented and immigrant community members.

## Analysis of Proposed Ordinance

Fuerza Latina and others requested that the City consider looking into adoption of a Community Trust Ordinance (CTO) in an effort to strengthen trust between city service providers and the immigrant community by eliminating unnecessary inquiries into immigration status. They provided proposed language for a CTO as well as key points related to it **(See Attachment 3)**.

Staff reviewed the proposed ordinance language and provides the following analysis:

1. **What does the proposed CTO mandate?**

The CTO prohibits the City and its employees from taking the following actions, unless an exemption applies:

- Inquire into, or ascertain, an individual's immigration status, citizenship, or country of origin
- Stop, question or detain an individual solely because of perceived national origin, foreign appearance, inability to speak English, suspected immigration status, race or religion.
- Use city resources or personnel to detect or apprehend persons whose only violation of law is or may be related to immigration status.
- Disclose information regarding citizenship or immigration status, unless authorized by the individual or law.
- Perform the work of immigration officials.

The CTO also requires federal Immigration and Customs Enforcement (ICE) agents to identify themselves at all times while in City facilities.

Some of the exemptions that allow the City or its employees to inquire about, or take action based on, immigration status are as follows:

- When required by city, state or federal law or program guidelines as condition of eligibility.
- For purpose of completing I-9 forms and other employment documents.
- If reasonably related to employee's duties.
- When relevant to threatened or actual civil litigation or administrative proceedings.
- When relevant to investigation or prosecution of a violation of a criminal statute.
- To comply with 8 U.S.C. §1373(a), which allows voluntary communication with ICE.
- Police may keep the peace while ICE performs their duties when there is an articulable safety concern, or when required to safely execute a criminal warrant.

In addition to the above, the CTO prohibits withholding City services to an individual based on the following protected classes:

- Ancestry
- Race
- Ethnicity
- National origin
- Color
- Age
- Sex
- Sexual orientation
- Gender variance
- Marital status
- Physical or mental disability
- Religion

The CTO also mandates the City will perform the following services and outreach connected with the CTO:

- Ensure meaningful access to City services for persons with limited English proficiency
- Provide an individual with the reason why the City is requesting immigration status.
- Implement ongoing training and education program to inform city employees and community members of requirements of the CTO.
- Post information about the CTO, and how to report violations, in all City facilities.

The CTO also requires the City to charge an existing department, as well as the Human Relations Commission, with receiving reported violations of the CTO. Violations of the CTO would presumably be punished under the City's general penalty provisions set forth in City Code §1-15, which includes fines not to exceed $2,650 and up to six months imprisonment for criminal violations and a fine not to exceed $2,650 for civil violations.

2. **What is a sanctuary city and what are the consequences of being one?**

To the extent the term is used in connection with federal regulations or programs, the federal government determines what a sanctuary city is. Currently, the federal government defines a sanctuary jurisdiction to include a city that willfully violates 8 U.S.C. §1373, which section prohibits a municipality from restricting its communications between its law enforcement function and federal Immigration and Customs Enforcement (ICE). Proposed H.R. 400 of the 115th Congress 1st session (2017-2018), if passed, would also define a sanctuary jurisdiction to include any municipality that does not comply with a request from the Department of Homeland Security (DHS) to detain an illegal alien until DHS is able to take custody of the individual.

The federal government currently takes the position that a sanctuary jurisdiction may lose any grants from the Department of Justice (DOJ). Proposed H.R. 400, if passed, would also take away additional federal funding from a sanctuary jurisdiction. There have been some recent proposals to regulate sanctuary cities at the state level in Colorado, however, while no laws have been enacted, the definition of the term and consequences would be set by the law adopted.

3. **Does state law require the City to verify lawful presence?**

Colorado Revised Statutes §24-76.5-103 requires a municipality to verify the lawful presence of any individual that is 18 years of age or older that applies for state, local and federal public benefits and sets forth the identification that a municipality may accept to verify such presence.

Colorado Revised Statutes §8-17.5-102 states that the City shall not enter a public contract for services with a contractor who knowingly employs or contracts with an illegal alien to perform work under the contract or who knowing contracts with a subcontractor who knowingly employs or contracts with an illegal alien to perform work under the contract.

Though the above laws may fall into exemptions of the CTO, additional edits would be necessary to make it clear that the City may request immigration information to comply with state law.

The City previously passed Resolution 2006-085 to comply with C.R.S. §29-29-103, which required Colorado municipalities to report arrestees to ICE when there is probable cause that the arrestee is not legally present in the United States. Even though C.R.S. §29-29-103 was repealed in 2013, Resolution 2006-085 has not been repealed.

4. **What internal anti-discrimination measures has the City taken?**

The City has enacted internal anti-discrimination plans and policies that include:

- The City's Title VI Plan reiterates its commitment to preventing discrimination in the administration of its programs, services and activities to those persons served on the bases of race, color and national origin (the "Plan"). The Plan sets forth a thorough explanation, by each department, of actions the City will take to ensure compliance with Title VI. The Plan also reiterates the City's commitment to comply with the Americans with Disabilities Act and prevent discrimination on the basis of disability in the administration of its services, programs and activities.
- The City has adopted a language access plan ("LAP") to establish policies and procedures designed to ensure meaningful language access to persons with limited English proficiency while using or coming into contact with City services, programs and activities.
- The City's personnel policy 1.2 prohibits unlawful discrimination in employment based on gender, gender identity, gender expression, race color, religion, creed, national origin, ancestry, age 40 years or older, marital status, disability, sexual orientation, genetic information, pregnancy, or

other characteristics protected by law. The City's personnel policy 8.2 prohibits harassment based on race, color, religion, sex, national origin, age, disability, sexual orientation, genetic information, or any other characteristic protected by law, and further prohibits sexual harassment or harassment that creates an intimidating, hostile or offensive work environment. The City's Police Services Manual has similar employment provisions at Policy 328.

- The City's Police Services Policy 402 prohibits providing police services differently based on race, ethnicity, nationality, religion, sex, sexual orientation, economic status, age, cultural group, or disability. Racial or ethnic profiling is also prohibited.

In addition to the above, the City has enacted an anti-discrimination ordinance at City Code Chapter 13 that protects individuals from discriminatory treatment based on the following classifications:

- Race
- Color
- Religion
- National origin
- Sex
- Marital status

Chapter 13 protects these individuals from being discriminated against in the following activities:

- Employment
- Housing
- Public accommodations

Based on the above, any approved elements of the CTO could be integrated into existing portions of City Code, plans and policies, rather than as a stand-alone ordinance.

## Review of Existing Policies

**Strategic Plans and City Values**

Staff reviewed current City strategic plans and the City's stated Values, and found alignment in the following areas:

1) City Strategic Objective Neighborhood Livability & Social Health (NLSH) 1.3: *Promote a more inclusive and equitable community that embraces and celebrates diversity.*
2) Social Sustainability Department Strategic Plan:
    i) Goal B.1: *To promote and maintain a welcoming, inclusive community where people feel connected.*
    ii) Action Item 2.b: *Research existing partner and community programs to help inform refugee and immigrant populations of their legal rights and responsibilities; seek opportunities to create programs where none currently exist.*

**Organizational Values**

Staff reviewed the six City of Fort Collins organizational values and found alignment in each one:

- Collaboration – *We partner internally and externally and believe that by working together we achieve better results.*
    - Working with internal and external partners on how best to serve our immigrant and undocumented population fosters an insightful, holistic approach to a complex issue, ultimately enhancing our organizational capacity to provide exemplary service to the entire community in a culturally sensitive manner.
- Excellence – *We set high standards, explore creative approaches to service delivery and problem solving, and seek ways to innovate and improve.*
    - We seek to identify any potential barriers that exist in our service provision to our immigrant and undocumented population, with full dedication to process improvement, creative solutions and innovative ways of addressing issues that disrupt their ability to lead peaceful and fully participatory lives in Fort Collins.
- Integrity – *We exemplify the highest standards of ethical behavior. We treat others with respect, and are honest, inclusive, and transparent.*
    - We understand that leading by example in serving our marginalized residents with respect, honesty and inclusion helps strengthen a sense of belonging for all in Fort Collins while underscoring our commitment to the highest ethical standards.
- Outstanding Service – *We seek to understand our customers' diverse needs and explore ways to exceed their expectations.*
    - We are open when listening to fears within the immigrant community with hopes of enhancing our organizational capacity to serve those in our community who might be experiencing unintentional barriers in accessing City services or are otherwise limiting their participation within the community at large.
- Safety and Well-Being – *We embody a culture of safety and wellness and believe that life balance matters.*
    - Working to gain a better understanding of what barriers exist within our immigrant and undocumented population helps ensure the physical and mental well-being of residents who may feel especially vulnerable, fearful or excluded, thereby helping foster a culture of safety for all.
- Stewardship – *We are dedicated to protect and enhance our organization and community's social, economic, and environmental resources.*
    - We are committed to protecting the social resources of our community, enhancing prosperity for all, and seeking to better understand any potential impacts to our economy if our immigrant and undocumented population curtails participation across all sectors.

**<u>Survey of City Programs</u>**

City departments were surveyed to find out what public benefit programs, grants, loans, or licenses are offered that request information from participants/clients pertaining to citizenship or immigration status—in some cases inadvertently via requesting a person's social security number. A summary of the results are:

Outreach to 20 Department Divisions resulting in:

- 100% response rate
- 10 Divisions inquire about citizenship for 19 different programs
- 100% inquire because of state and/or federal

Divisions include:

1. Building Code Services

2. City Clerk's Office
3. Cultural Services
4. Engineering
5. Environmental Services – Air Quality
6. Environmental Services – Recycling
7. FC Moves
8. Forestry
9. Historic Preservation
10. Human Resources
11. Library District
12. Natural Areas
13. Neighborhood Services
14. Parks & Cemeteries
15. Police – Investigations
16. Purchasing
17. Recreation
18. Sales Tax
19. Social Sustainability
20. Utilities

Staff followed up with Divisions to gain a more thorough understanding of why programs inquire about citizenship, the application process, and if applicants receive benefits since these are important factors that determine whether or not state and/or federal requirements need to be applied.

- 18 programs currently require applications
- 12 offer benefits (i.e. discounts, rebates, wages if hired)

**Employee and Volunteer Policies**

The Human Resources Department oversees all hiring and recruitment of City employees and volunteers. The Equal Opportunity Statement clearly prohibits discrimination for employment decisions and prohibits discrimination and harassment in the work environment. Additionally, there are policies that prohibit discrimination and harassment in the Conduct and Performance and Harassment Prohibited sections.

Below outlines each program and how/what information is required and/or requested regarding citizenship and/or immigration status.

a) Talent Acquisition
   i) Application asks, "Are you a citizen of the United States or are you legally authorized to work in the U.S.?"
   ii) I-9 Verification requires document(s) from the acceptable list stated on the I-9
   iii) On-boarding – fob (an electronic entry device) card - the employee is required to show Identification (does not have to be government issued)
   iv) Background Checks - not required
   v) Drug Screenings 8.17.5 (Concentra requires ID)

b) Volunteer Program
   i) Volunteer Application - ID optional to process an application
   ii) Position of Trust Volunteers Only - Requires ID necessary to process an application
   iii) Volunteers that drive to conduct City business - Driver's License Number Required

c) Unpaid interns
   i. Same as volunteers

**Procurement and Contractor Policies**

Purchasing Services Agreement and Professional Services Agreement

The City's Services Agreement and Professional Services Agreement include a contract provision which is a "prohibition against employing illegal aliens." This provision is a requirement of the Colorado Revised Statute (C.R.S) Section 8-17.5-101 et. seq. **(see Attachment 4)** which prohibits the City from entering into a "public contract for services" with a contractor who knowingly employs or subcontracts with illegal aliens and the state requires the City to include certain illegal alien provisions in all of its "contracts for services."

The provision requires the City's contractor to notify the City within three (3) days that contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien. The provision also requires the City's contractor to terminate the subcontract within three (3) days in the event the subcontractor does not cease employing or contracting with the illegal alien or provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

The statutes do not provide any kind of enforcement action that can be taken against the City or impose any penalty on the City for failing comply with the statute.

The City does not perform any action to enforce and/or verify the contractor's compliance to the statute.

New Vendor Set-Up

The City requires all new vendors/contractors to complete a Department of the Treasury Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification. The W-9 requires a social security number or employer identification number. The W-9 also includes a requirement to certify that "I am a U.S. citizen or other U.S. person (defined below)." The W-9 is required for federal income tax reporting.

**Police Handbook and Policies**

Fort Collins Police Services utilizes ten policies to address various aspects of this matter. They are briefly described below **(See Attachment 5)** as well as where these policies align with the proposed Community Trust Ordinance (CTO).

- **#338 Bias-Motivated Crimes**
  - Recognizes the Federal and State prohibitions on bias-motivated crimes
  - Commits to establishing proactive relationships and to swiftly investigating these crimes – aligns with CTO (Whereas 1, 2, 3, 4, & 5) and (j & k)
  - Specifically prohibits turning a victim/witness over to federal authorities solely for immigration violations – aligns with CTO (Whereas 4 & 5) and (d & e)
- **#340 Expectations of Conduct**
  - Prohibits harassment or intimidation of any person including that based on protected status – while immigration status is not specifically called out as a protected class, this applies to any person - aligns with CTO (Whereas 1 & 2) and (c & j)
  - Prohibits any form of bias-based policing – aligns with CTO- (Whereas 1 & 2) and (c & j)

    - Prohibits conduct that tends to impair the effectiveness, efficiency or morale of the Agency, may cause the public to lose confidence in the police department, violates the public trust or negatively affects the reputation of the Agency or any employee – aligns with CTO (Whereas 4)
    - Prohibits violating the Constitutional rights of any person
    - Requires employees to have articulable, factual reasons for engaging in an investigation – aligns with CTO (c, h.5, & l)
    - Prohibits employees from belittling or dismissing reports from a person or requests for information or assistance – aligns with CTO (j)
    - Requires employees to be courteous, civil, and respectful of people – aligns with CTO (Whereas 1) and (j)
- **#352 Mutual Aid and Outside Agency Assistance**
    - Requires employees to assist outside agencies whenever reasonably possible as is consistent with law and policy – this applies when FCPS is called to assist for criminal matters since FCPS has an obligation to help stabilize other law enforcement agencies' activities and support them (but it does not include actual immigration enforcement) - aligns with CTO (d and h.7)
- **#368 Limited English Proficiency Services** – entire policy aligns with CTO (k)
    - Requires that LEP individuals have meaningful access to law enforcement services
    - Forbids discrimination or denial of service based upon protected status [See CTO (j)]
    - Provides for telephonic interpreters
    - Maintains list of qualified bilingual employees and authorized interpreters
    - Ensures signage stating interpreters are free of charge for LEP persons
    - Reviews/Updates vital documents for translation into languages most likely to be encountered
    - Sets expectation that employees use various resources to determine LEP language needs and then provide service through free interpreter or through the person's interpreter
    - Sets expectations for qualified bilingual employees and interpreters
    - Sets 911 call-taking responsibilities for LEP persons
    - Sets expectations for officer training, enforcement, interviews, jail booking, receipt of complaints, and community outreach with LEP persons
- **#402 Racial or Bias-Based Profiling**
    - Forbids bias in race, ethnicity, nationality, religion, sex, sexual orientation, economic status, age, cultural group, disability, or affiliation with an identifiable group towards differing levels of service or enforcement – immigration status is not listed in local, state, or federal law as a protected status – as worded, this policy effectively protects the concerned persons because it lists many classes and mirrors #340 which forbids harassment behaviors for "any" person - aligns with CTO (Whereas 1 & 2) and (j)
    - Forbids racial or bias-based profiling while allowing officers to consider legitimate reports of suspect description in taking action – aligns with CTO (Whereas 2) and (e)
    - Requires employees to report any known instances of racial or bias-based profiling – aligns with CTO Section 2 (b)
    - Requires officers to provide identification through citation, arrest documents, or business card to any person detained on a traffic stop

    - Requires officers to be prepared to articulate reasonable suspicion to justify a detention that is independent of the person's protected class – aligns with CTO (l)
    - Requires Agency to provide information at its front desk on how to make a complaint **(See Attachment 6)** - aligns with CTO Section 2 (b)
    - Requires Agency to investigate all complaints of alleged racial or bias-based profiling – aligns with CTO Section 2 (b)
    - Sets expectation for supervisors to monitor employees for any behavior that may conflict with this policy – aligns with CTO Section 2 (b)
    - Requires Agency to compile, at least annually, information derived from profiling complaints received due to the distribution of officers' business cards. Info shall be made available to the public. – Information provided at FCPS front counter and can be added to the website.
    - Sets employee training expectations – aligns with CTO Section 2 (a)
- **#422 Diplomatic and Consular Contacts**
    - Requires employees to treat foreign service personnel with respect and courtesy
    - Forbids in-custody arrest of person with diplomatic or consular immunity
    - Identifies levels of immunity afforded to foreign service personnel
    - Discusses appropriate identification cards for Foreign Service personnel – aligns with CTO (i)
    - Restricts the search, storage, and impoundment of vehicles from immune persons
    - Sets limits on the arrest of foreign nationals who do not claim diplomatic or consular immunity – aligns with CTO (b, c, & d)
- **#428 Immigration Violations**
    - Discusses ICE's primary authority under Title 8, United States Code (Federal law). – aligns with CTO (Whereas 5)
    - Allows FCPS to assist ICE when criminal violations are discovered outside Title 8 – aligns with CTO (d & h)
    - Refers citizens reporting immigration violations to ICE – aligns with CTO (Whereas 6)
    - States officers must make legitimate contact with and have reasonable suspicion that an individual is an undocumented alien prior to checking immigration status. States that contacting an individual for suspicion of being an undocumented alien should generally not be the sole basis for detention or arrest. – aligns with CTO (e & d)
    - Allows officers to take reasonable steps to identify a person suspected of a criminal violation – aligns with CTO (b & i)
    - Allows arrest of person suspected of criminal violation who cannot be reasonably identified – aligns with CTO (i)
    - States arrests will be based upon factors establishing probable cause and says race, ethnicity, age, gender, sexual orientation, religion, and socioeconomic status will be of no bearing – aligns with CTO (c)
    - Acknowledges people's need to feel secure that contacting law enforcement will not make them vulnerable to deportation – aligns with CTO (Whereas 4)
    - States that employees should not attempt to determine the immigration status of crime victims and witnesses and should not take enforcement action absent exigent circumstances or reasonable cause they are involved in criminal law violations – aligns with CTO (b & c)
    - Sets standards for review of U-Visa/T-Visa by a Criminal Investigations Division supervisor

- **#440 Detentions, Contacts, and Photographing Detainees**
    - States officers may stop individuals for the purpose of conducting a Field Interview where reasonable suspicion of criminal behavior is present – aligns with CTO (h.3 & i)
    - States that a subject may be detained to conduct a Field Interview/Identification for the period of time reasonably necessary to determine their identity and to resolve the officer's suspicions – aligns with CTO (h.3 & i)
- **#600 Investigation and Prosecution**
    - Requires employees assigned to a case to proceed with due diligence in evaluating and preparing the case for appropriate clearance or prosecution – aligns with CTO (j)
    - Interview the victims, informants, complainants, witnesses, and suspects – aligns with CTO (h.3 & 4)
    - Communicate with the victims to provide case status – aligns with CTO (j)
    - Provide referrals for services such as Victim Services and Department of Human Services – aligns with CTO (j)
    - Requires a free interpreter be made available for a person with communication disability before any interrogation or taking of their statement – aligns with CTO (k)
    - Requires a thorough investigation where possible – aligns with CTO (j)

- **#1020 Administrative Investigations** [Entire Policy aligns with CTO, See CTO (j) and Section 2 (b)]
    - Sets complaint and investigation processes for allegations that FCPS employees violated law or policy
    - Ensures fair treatment of complainants and witnesses of all classes against employees
    - Provides complaint packets (English/Spanish)
    - Allows for verbal and confidential complaints
    - Allows complainant to have representative with them
    - Allows for complaint review by Citizen Review Board
    - Complainant will be notified of findings

The Fort Collins Police Services (FCPS) policies already in place align significantly with the general goals as well as the specific language of the proposed ordinance. FCPS has policies to guide its employees that address how we assist our citizens, work with federal authorities, and handle related matters. Many of the sections of the proposed ordinance are overly restrictive or need some amendments:

- Ordinance Section (b): Overly restrictive. The draft ordinance states *"No city employee shall inquire into the immigration status, citizenship, or country of origin of any person, or engage in activities designed to ascertain the immigration status of any person, while the city employee is acting within the scope of his or her employment with the city. As used in this subsection, "any person" shall include, but not be limited to, victims and witnesses of crime.* The ordinance then goes on to list exemptions for such a strict prohibition. Rather, it might be best to say, "*except as provided in (1), (2), (3), etc….. below, No city employee shall…"*
- Ordinance Section (d): Overly restrictive. FCPS personnel may assist ICE during immigration enforcement by providing support such as perimeter security.

Circumstances could evolve to a point where physical assistance is provided when a subject resists or assaults (criminal charges) an ICE agent.

- Ordinance Section (e): Again, this is overly restrictive and does not consider myriad of matters that may arise for our officers when such specific disclosure is not required by law, but furthers other enforcement of valid laws or contributes to the public good/safety.
- Ordinance Section (h.5): This section should include all offenses such as Petty and Traffic Offenses.
- Ordinance Section (j): Many international IDs are unique, do not have translations, or are vague by US standards. Officers frequently have to conduct further inquiry of the person or official sources to determine if the ID is valid for the purpose it's being presented.
- Ordinance Section 2(b): FCPS personnel are investigated by its Internal Affairs Unit under FCPS policy which has a very high level of accountability.

Fort Collins Police Services is open to making needed changes if there are areas identified in their policies that are not clear or still cause concern.

**Process for Reporting Employee Policy Violations**

For City employees, there is an anonymous hotline employees can call as well as policies pertaining specifically to reporting violations about discrimination and/or harassment. *"Any employee who believes that he/she has been unlawfully discriminated against or harassed should promptly report the facts and the names of the individuals to the Chief Human Resources Officer or by other means provided by the City for reporting unlawful or impermissible conduct. The City will promptly investigate all such complaints and take appropriate action."* **(See Attachment 7)**.

For a complaint about a City employee from a community member, contact Human Resources at 970-221-6535.

Specifically for Police Services, there is a detailed complaint and review process. The description of the process and the form is available at the front desk of Police Services or people can call 970-419-FCPD(3273) to request it. The Fort Collins Police Services complaint intake and process (which applies to both union and non-union employees) is as follows:

(1) Complaints can be made in person, by phone, by email, or US mail
(2) Complaint packets are in English and Spanish (other languages may be supported through free services)
(3) Three levels of administrative investigation based on accusation:
    (a) Performance Complaints are investigated by the employee's supervisor
    (b) Level I Complaints are investigated by the employee's supervisor or Internal Affairs
    (c) Level II Complaints are investigated by Internal Affairs
(4) Some administrative investigations may be reviewed by special boards
    (a) Citizen Review Board
    (b) Special Force Review
(5) Investigations are reviewed by a chain of review (senior personnel) which render findings on the alleged policy violations and recommend discipline and/or training if appropriate
(6) The Chief of Police is the final decision-maker
(7) Corrective Actions may include:
    (a) Counseling/Mentoring

(b) Training
(c) Reassignment
(d) Oral Reprimand
(e) Written Reprimand
(f) Suspension
(g) Demotion
(h) Termination

**Legislative Policy Agenda**

The City's Legislative Priorities are broad issues Fort Collins is focused on during the Colorado General Assembly and United States Congress sessions. The Priorities may carry over year to year since they are larger, more challenging issues that may take multi-year work to influence.

The Policy Agenda is a broad set of policy statements meant to convey positions on issues that affect the quality of life and the governance of our community. It is structured to address areas of local concern and to also reflect the strategic planning that guides City of Fort Collins organizational resource allocation and decision making.

The 2017 Legislative Policy Agenda does not directly address immigration or citizenship status.

Potential alignment with the CTO includes the following language found in the Legislative Policy Agenda:

- The Social Sustainability Department's mission is to support a diverse, equitable, and inclusive community that successfully meets the basic needs of all residents. This mission is supported through programs, policies, and partnerships that provide access and opportunities for all.
- Under Parks and Recreation- Expand access and inclusion for all citizens to community recreational opportunities.
- Under Public Safety- Provide greater protection to victims of crime.

Legislative Policy Agenda does not set City procedures or laws. It is a guiding document directed towards State and Federal level legislation.

## Research of Other Cities

In researching other Colorado jurisdictions, staff found a handful of cities that either are a Sanctuary City or have taken some action to indicate immigrant support. Additionally, the State adopted a bill in 2013, House bill 13-1258, making it no longer illegal to prohibit a peace officer, local official, or municipal employee from communicating or cooperating with federal officials with regard to the immigration status of any person within this state. It was cited as being done because of "importance of building trust in communities and conserving local government resources for other matters."

Colorado Jurisdictions: Comparison of Immigrant Support

| | |
|---|---|
| Boulder | Self–identified Sanctuary City January 2017 |
| Snowmass | Self-identified Sanctuary City Spring 2017 |
| Lafayette | Resolution ensuring equal protection and services for all, highlights strong support for immigrants |

| | |
|---|---|
| Denver | Media sources describe Denver as taking an aligned and supportive stance on maintaining a welcoming, inclusive environment for immigrants |
| Westminster | Stated on website: the city embraces its diverse community and that local law enforcement officers do not inquire about immigration status |
| Aurora | Citizenship and immigration resource page on website |

While City staff focused on research of Colorado jurisdictions, Fuerza Latina provided some research they found of other cities across the country with similar community trust ordinance. **(See Attachment 8)**

**National Immigration Issues that May Affect the City**

During the research of other jurisdictions, both in Colorado and the nation, staff found additional issues that continually appeared in the national discourse. Although these topics have not caused recent issues within the City, the coverage of these topics on national news and other media sources have led to increased concern and anxiety amongst immigration populations within the City.

The first issue staff has identified is to what extent cites require their police officers to report suspected illegal immigrants to ICE. While cities cannot restrict communications between law enforcement and ICE, cities do not have to require police officers to report suspected undocumented immigrants to ICE. The City's police policies do not restrict its officers from communicating with ICE, but also do not require officers to report suspected undocumented immigrants to ICE. However, the City has previously adopted Resolution 2006-085 that requires its officers to report arrestees to ICE when there is probable cause that such arrestees are in the Country illegally. Resolution 2006-085 was passed to comply with C.R.S. §29-29-103, which statute was repealed in 2013. Because Resolution 2006-085 was not repealed by the City, the resolution still requires police officers to report arrestees to ICE when they fit the requirements of Resolution 2006-085, even though it does not appear to be a current City police practice.

Another issue that cities across the nation have been addressing is immigration detainers. An immigration detainer is a notice that ICE issues to a law enforcement agency requesting that the agency detain an individual when ICE has determined probable cause exists that the individual is an illegal alien. The City does not operate a jail and so the extent of the City receiving an ICE immigration detainer for somebody in City custody is minimized, however there is still a chance this may become an issue.

A new issue that is starting to emerge amongst cities, including Denver, is that ICE agents will review the public docket of a municipal or county court for individuals who may be in the country illegally. The ICE agents then wait outside the municipal court to detain, and possibly deport, the individual. While the City has not had any reported instances where an ICE agent waited outside of municipal court to detain an individual, there is the possibility that individuals may fear deportation by ICE agents if they go to municipal court and ultimately elect not to show up for scheduled court dates.

## Preliminary Community Input Meetings

City staff conducted targeted engagement with community stakeholders who consistently work or have familiarity with undocumented and/or immigrant community members. Although there are plans for broader engagement to collect more diverse perspectives, staff was intentional in collecting the following data for the purposes of this analysis, as there can be an inherent tension and vulnerability with undocumented individuals interfacing with municipal organizations, and because of this, no data points

had been collected to date—although that particular outreach is highlighted in the Social Sustainability Strategic plan (Action Item 2.b under Goal B.1:*Research existing partner and community programs to help inform refugee and immigrant populations of their legal rights and responsibilities; seek opportunities to create programs where none currently exist.)*

Themes emerged in speaking with different stakeholders around the need for community workshops and/or trainings, bias reduction trainings for internal staff, fear of reporting crimes when victim or witness, isolating in homes and fear of applying for city and human services.

Following is a summary of stakeholder interviews:

- **Islamic Center of Fort Collins Leadership**
  President Tawfik Aboellail & Islamic Center Board Member Belgasem Belgasem visited City staff on June 16, 2017 to discuss the CTO and to gather further input regarding immigrant relations with the City of Fort Collins and the community as a whole.

  President Aboellail and Islamic Center Board Member Belgasem shared a desire for City staff to enhance civil rights education and awareness for immigrant community members. He also expressed a desire for more equity and inclusion considerations in all projects, programs and policies initiated by the City. President Tawfik expressed that his center's members find great value when city officials and employees ask to utilize the Islamic Center of Fort Collins facilities to conduct such informative and educational events, as it fosters trust and comfortability among participants.

  Additionally, there is a desire to increase volunteer engagement awareness and opportunities among this community. While these two gentlemen did note that Fort Collins demonstrates a better sense of inclusivity compared to other cities they have been exposed to in the state and nation, they suggested the City maintain a holistic, proactive approach in its inclusivity efforts. There are a few suggestions they had to increase the welcoming nature of the City of Fort Collins:
    - Increased training to reduce bias/profiling from Police Services regardless of the situation at hand (civil infraction versus suspected criminal cases)
    - Increased dietary restriction considerations in city/community sponsored events
    - Expanded holiday recognition considerations
    - More frequent and intentional workshops/educational seminars regarding civil rights (housing rights, eviction processes, etc.), law enforcement services, consulate/immigration resource information (political asylum, refugee status, and language interpretation services

- **Fuerza Latina Leadership & Community Members**
  Fuerza Latina leaders Kim Baker Medina, Cheryl Distaso, and Nathan Howard met with City Staff and community members on June 19, 2017 at the Fort Collins Old Town Library to share experiences, concerns, and desires moving forward with increased understanding and equitable treatment for undocumented community members. Also present were individuals who shared how they live in persistent fear in their daily lives, or as a 'shadow' class, and fear, in particular, interfacing with police services.

  The group believes a Community Trust Ordinance which includes punitive measures for City Staff who intentionally discriminate individuals based on citizenship status would send a strong message from City Leadership that this behavior is prohibited.

Community members indicated they understand not all officers have ill intentions, in fact they stated that they believe most in Fort Collins are well-intentioned, but they remain fearful of interactions, thinking it could lead to their being uncovered and potentially detained and/or deported. Community members stated they do not seek amnesty for violent/dangerous criminals who are undocumented but rather an enhanced assurance they are welcome as peaceful community members in the City of Fort Collins regardless of their citizenship status. A few humanitarian concerns raised by Fuerza Latina community members included:

- Failure to report crimes among the undocumented community (i.e. domestic violence, assaults, robbery, etc.) due to the fear of releasing their legal status to Fort Collins Police Services
- Having no access to advanced health services in Fort Collins and needing to commute outside of town for care (a mother shared she feared for her family's sustainability when she risks commuting to Denver with an invalid license to receive care for her toddler-aged daughter who suffers from cancer)
- Individuals who lack legal status who work at cleaning facilities at night fear reporting suspicious criminal activity to local law enforcement out of fear of being arrested themselves
- Parents refrain from applying for city resources (i.e. Recreation Programs) that request lawful status information even though their children are U.S. Citizens, and suggest the City maintain a clear statement/ "guarantee" that any City Staff will not disclose their information to higher legal jurisdictions when unnecessary

- **CSU's Diversity & Inclusion Leadership**
  Oscar Felix, Associate Vice President for the Division of Diversity and Inclusion, met with City Staff on July 6, 2017 at the City of Fort Collins Utilities Building to discuss the CTO and to gather further input regarding Colorado State University's practices with immigrant populations. Associate Vice President Felix highlighted CSU's efforts to address all non-domestic/international/varied status students. Among those he highlighted:
  - The existence of a DACA & Undocumented Student Taskforce on campus that meets to address the specific needs of this student population, which currently sits at 120 students. This taskforce aims to assist students from the recruitment/admissions process, to financial aid services, and beyond while being cautious of navigating federal and state implications of doing so.
  - The Division of Diversity and Inclusion seeks to enhance its inclusivity efforts to all immigrant students including international populations through impactful programming, and outreach (i.e. "You are Welcome Here" Poster campaign/ Dr. Frank's Community Forum). Associate Vice President Felix noted that due to the heightened level of fear that is present on campus and in the community due to President Trump's Executive Order(s) regarding the Travel Ban of some Middle Eastern countries, along with the increased attention to anti-immigrant rhetoric, there is more of a need to mitigate these fears on campus.
  - Through a student fee-funded area, students will also have increased access to immigration attorneys beginning in the 2017-2018 academic year.
  - Through the Access Center at CSU, efforts exist to support at-risk students including underrepresented communities that include but are not limited to undocumented and

immigrant students.
    - Associate Vice President Felix echoed the need to examine the inconsistencies that the City of Fort Collins might have when it comes to full participation of community members with varied citizenship/legal status through engagement with inclusivity and city services.
    - Felix also suggested more collaboration with City staff on speakers, workshops, cross-promoting celebratory/cultural events, etc., to better leverage resources and broaden communitywide efforts on inclusion.

- **CSU Dreamer's Student Organization**
  Student Leaders spoke with City Staff via phone on July 11, 2017 to discuss immigrant and undocumented student experiences as follows:
    - Concerns about reporting to police, especially when there are students with limited legal status as it pertains to the safety of a party environment, profiling by association even if not participating in the behavior
    - Fear when reaching out for community reproductive health resources because they do not know what information will be requested of them
    - Housing disparity: Landlords requiring proof of status to lease and requesting an additional co-signer if under certain age (21), yet parents are undocumented so they cannot find housing as easily as their U.S. Citizen student counterparts

- **Holy Family Church Leadership**
  Administrative Secretary Maria Fuerte spoke with City Staff via phone on July 10, 2017 to discuss immigrant experiences as follows:
    - 33+years in her position working with immigrant communities
    - "People feel intimidated when calling FC Police Services…racial profiling is prominent, vehicle accident service discrimination (police service bias when interacting with folks who don't speak English), fear to report derogatory threats/harassment, domestic violence reporting."
    - Requests for enhanced Spanish translation for victims
    - Believes a hotline and increased civil rights education and engagement would be beneficial
    - Supports mission of Fuerza Latina's efforts

- **Poudre School District's Equity Department**
    - Shared that parents often won't report landlord violation for fear of exposure
    - Hesitancy to interact with school programs and staff
    - People are living with fear of being uncovered and as a result, isolate and don't lead fully participatory lives in community.

## Next Steps

<u>Options and Possible Next Steps</u>

1. Consider repealing City Resolution 2006-085 passed in 2006 to comply with Colorado Revised Statutes (C.R.S.) 29-29-103, which required Colorado municipalities to report arrestees to ICE when there is probably cause that the arrestee is not legally present in the United States. Even

though C.R.S. 29-29-103 was repealed in 2013, City Resolution 2006-085 still remains in effect.

2. Convene an internal cross-departmental team to examine Human Resources and/or Police Policies to find potential changes to bring to Council or City Manager for consideration.

3. Consider legislative policy agenda stance on State and Federal laws that require the City to take special measures related to immigration status, including examining other state trust acts.

4. Explore adopting a resolution that demonstrates clear support for immigrant populations.

5. If Council directs staff to consider formal adoption of a Community Trust Ordinance, a community engagement process would need to occur since this report focused primarily on internal analysis so broader community engagement would be needed.

6. Consider a language shift and replace “resident” or “community member” for “citizen” in all City documents, both internal and external.

7. Public Communications and Engagement Strategies

    a. Determine Public Communication and Engagement Process to inform community members, particularly immigrant and undocumented population, about City policies and practices to enhance the feeling of safety and instill confidence in the City’s policies and processes.
    b. Determine Public Communication and Engagement Process to hear from the immigrant and undocumented community members on issues affecting their participation in City services and how they would like to be informed, going forward, of any changes to our processes.
    c. City staff has heard that more education and outreach would be helpful in making Fort Collins a more welcoming place. In response, the Downtown Development Authority is putting up multi-lingual welcome banners, and the City is looking into adding some on City light poles.

8. Consider the implementation of a “hot-line” as a safe place for people to call to report concerns.

9. Convene an internal programs committee to see what, if any, changes can be considered for different departmental programs.

10. Explore possibility of amending the Municipal Code to include citizenship status as a protected category in instances that maintain adherence to state and federal law.

11. Explore possibility of City accepting valid non-US issued forms of identification.

12. Outside the realm of this proposal, suggestions from community members on how to increase trust and inclusion of local immigrant and undocumented populations included:

    a. Explore collaborating with nonprofit partners in the housing arena to ensure people know their rights regarding landlord/tenant relations, especially in cases of evictions.

    b. Explore possibility of replicating Vida Sana program for other minority groups in the community in order to better serve underrepresented populations and foster positive interactions with City services.

## Attachments

1. Translated Immigrant Testimonials from Fuerza Latina
2. Community Trust Ordinance Research of Colorado Jurisdictions by city staff
3. Proposed Community Trust Ordinance and Key Points from Fuerza Latina
4. City of Fort Collins Purchasing Services Agreement and Professional Services Agreement
5. Fort Collins Police Services Policy Manual sections
6. Fort Collins Police Services Complaint Process Form
7. City Employee Performance Complaint Process and Flow Chart
8. Fuerza Latina Research on Cities with Similar Ordinances