

# Agenda Report

March 27, 2017

**TO:** Honorable Mayor and City Council

**FROM:** City Manager

**SUBJECT:** Consideration of City policy in regard to Immigration issues

**RECOMMENDATION:**

It is recommended that the City Council:

1. Find that the action proposed herein is exempt from the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines, Section 15061(b)(3), as it will not have a potentially significant environmental effect and, therefore, falls under the "general rule" exemption;
2. Approve the City's Legislative Platform, Item 8 on the City Council Agenda, including the support for the reforming of federal immigration law, as detailed in the Platform and in the Background section of this report;
3. Consider what, if any, additional actions the Council may wish to take beyond those being implemented at the staff level, as described in this report and its attachments, in regard to federal immigration issues.

**BACKGROUND:**

The City of Pasadena is a thriving, diverse and welcoming community. The City strongly believes that immigrants strengthen the community economically and culturally, and welcomes their contributions to society. Recent actions at a national level on immigration matters and, specifically, calls for deportation of the undocumented, have sparked a debate over what position state and local governments should take on deportation and broader immigration issues. This report provides both the background on the City of Pasadena's attention to these issues to date, and context for any broader, or narrower, position which the City Council might wish to take as a matter of public policy.

### **THE CITY OF PASADENA LEGISLATIVE PLATFORM ON IMMIGRATION:**

On October 28, 2013 the City Council adopted Resolution 9319 (Attachment "A"), which set forth the Council's position that Pasadena supports a humane and comprehensive immigration reform proposal with the following principles: provides an attainable and affordable pathway to full citizenship for the nearly 11 million undocumented immigrants in the United States; establishes family unity as a cornerstone of our immigration system; provides due process and labor protections; allows access to key essential services such as health care; and states that local governments should not be mandated to enforce federal immigration laws, particularly when resources necessary to enforce local laws are already stretched.

This position has been incorporated into the City's adopted Federal Legislative Platform each year since. Further, as part of this evening's Council agenda, the Legislative Policy Committee is recommending that the City Council amend this policy statement to include the additional support for federal legislation that would protect children who were brought to this country without immigration documents, as part of the Deferred Action for Childhood Arrivals (DACA) program. In addition, the Legislative Policy Committee is recommending opposing efforts to deny federal funding to Sanctuary Cities.

### **PASADENA POLICE POLICY ON IMMIGRATION:**

In addition to the Council's policy statements, the Pasadena Police Department has long refrained from inquiring as to the immigration status of those persons with whom it has contact. The Pasadena Police administrative policy has embodied this practice since 1989. This practice reflects the relationship of trust between the Pasadena Police Department and the community it serves, as well as the reality that the safety of the entire community is put at risk if people are fearful of cooperating with local law enforcement for fear of deportation.

In light of the recent public attention to these issues, the Pasadena Police Department has been working to update its administrative policy, which has been informed by suggestions made by community members, including a Resolution suggested by community members entitled "Pasadena Police Department Immigration Status and Bias-Free Policing Policy," (Attachment "B"). This resulted in a draft policy, "Policy 428 Immigration Policy," (Attachment "C"). Notice was given to the Pasadena Police Officer's Association of the intent to adopt this draft Policy, and the Association had no objections. The intent of this draft Policy is to continue disengagement of the Pasadena

Police Department from deportation activity to the greatest extent permitted by law and adopts some of the language from the suggested Resolution. It differs from the suggested Resolution in a couple of areas: First, it is staff's position that the Police Department should not completely disengage from the U.S. Immigration and Customs Enforcement (ICE), or any law enforcement agency. For example, ICE is involved in matters of national security, including combating terrorism, human trafficking, drug trafficking, and money laundering, and the Police Department should continue working cooperatively with ICE in this type of law enforcement activity. Second, federal law does not allow any government entity to prohibit contact by individuals with ICE.

### **CITY OF PASADENA STANDARD OF CONDUCT REGARDING CONFIDENTIALITY:**

The Trump administration's recent pronouncements regarding potential accelerated and expanded deportations of undocumented immigrants has stirred fear and concern in numerous communities, including Pasadena. On February 27<sup>th</sup> the Council heard considerable public testimony regarding the issue. Related to this, a number of community members have asked the City Council to adopt a Resolution (Attachment "D"), which would declare Pasadena to be a "Sanctuary City" and direct all "City departments, agencies, or commissions to review their confidentiality policies and identify any changes necessary to ensure that information collected from individuals is limited to that necessary to perform their duties and is not used or disclosed for any other purpose." It was further suggested that, "[i]t shall be the policy of all City departments, agencies, and commissions not to provide non-publicly available information about any individual to any entity or official, including but not limited to any state or federal government agency or official, unless necessary to perform department, agency, or commission duties or required by law." The intent of the Resolution provided by community members is to prevent the City from participating in any registry system that might facilitate deportations.

To address the community concerns regarding the need to prevent the reuse of personal information in a deportation or other adverse setting, a new citywide policy has been developed for incorporation into the City's Manual of Personnel Rules, Practices and Procedures, "Standards of Conduct Regarding Confidentiality" (Attachment "E"). This Policy would apply to all City employees. Notice has been given to all of the City's bargaining groups of the intent to finalize the Policy, and no questions were raised by any bargaining group. This Policy sets forth the City's commitment to the confidentiality of information gathered for municipal purposes and would explicitly limit collection or dissemination of information regarding a person's status. This policy, as developed by City staff, differs from that proposed by community advocates most significantly in that it does not declare the City of Pasadena to be a "Sanctuary City."

### **SANCTUARY DESIGNATION:**

Currently, there is no legal definition or uniform approach as to what constitutes a “Sanctuary City.” Neither those communities which embrace the definition, nor the elements of the federal government which might penalize a city for that designation have set forth a list of elements necessary to constitute a Sanctuary City. Historically, a “sanctuary” was a sacred place or place of worship. The notion of a sanctuary being a place in which the persecuted could seek refuge from civil authorities is found in the Biblical Book of Deuteronomy, in the laws of ancient Greece and Rome, and in medieval Church canon law. In the 1980’s, the Sanctuary Movement was a religious and political movement to provide safe haven for Central American refugees fleeing civil wars. It responded to federal immigration policies that made obtaining asylum difficult for Central Americans. More recently, the term, Sanctuary City, has come to be a self-designation in conjunction with policies that limit or prevent collaboration with the federal government on immigration enforcement.

The purpose of the City’s administrative policies is to set forth rules for the conduct of City business by City employees, consequently the self-designation as a “Sanctuary City” would not, in and of itself, affect administrative policy. Moreover, use of the term suggests a level of protection against Federal enforcement offered by the City that, in reality, does not exist. To the extent the City Council may wish to make a more definitive, public policy statement, staff would recommend that it be incorporated into the Legislative Policy Platform.

It should be noted that these public policy issues are being addressed at the state-level as well. Specifically Senate Bill 54 (SB54), is currently making its way through the legislature (Attachment “F”). This Bill, if passed and then approved by the Governor, would declare California to be a “Sanctuary State” and prohibit California law enforcement agencies from:

(1) Using agency or department moneys, facilities, property, equipment, or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, including, but not limited to, any of the following:

(A) Inquiring into or collecting information about an individual’s immigration status, except as required to comply with Section 922(d)(5) of Title 18 of the United States Code.

(B) Detaining an individual on the basis of a hold request.

(C) Responding to requests for notification or transfer requests.

(D) Providing or responding to requests for non-publicly available personal information about an individual, including, but not limited to, information about the

person's release date, home address, or work address for immigration enforcement purposes.

(E) Making arrests based on civil immigration warrants.

(F) Giving federal immigration authorities access to interview individuals in agency or department custody for immigration enforcement purposes.

(G) Assisting federal immigration authorities in the activities described in Section 1357(a)(3) of Title 8 of the United States Code.

(H) Performing the functions of an immigration officer, whether pursuant to Section 1357(g) of Title 8 of the United States Code or any other law, regulation, or policy, whether formal or informal.

(2) Making agency or department databases, including databases maintained for the agency or department by private vendors, or the information therein other than information regarding an individual's citizenship or immigration status, available to anyone or any entity for the purpose of immigration enforcement. Any agreements in existence on the date that this chapter becomes operative that conflict with the terms of this paragraph are terminated on that date. A person or entity provided access to agency or department databases shall certify in writing that the database will not be used for the purposes prohibited by this section.

(3) Placing peace officers under the supervision of federal agencies or employing peace officers deputized as special federal officers or special federal deputies, except to the extent those peace officers remain subject to California law governing conduct of peace officers and the policies of the employing agency.

(4) Using federal immigration authorities as interpreters for law enforcement matters relating to individuals in agency or department custody.

The passage of SB54 would likely set up a court battle between the state of California and the Trump Administration, which, on January 25<sup>th</sup>, issued an Executive Order which seeks to withhold federal funds from jurisdictions that fail to comply with Federal law concerning immigration enforcement. To date, the City of San Francisco and the County of Santa Clara, along with the cities of Lawrence and Chelsea, MA, have filed suit against the Trump administration seeking to block any cut off of federal funds.

Annually, the City of Pasadena receives a significant amount of federal funding. The amount of federal funding that could actually be subject to elimination in the event of adverse action by the Trump Administration is currently undetermined. Nevertheless, in Fiscal Year 2016 the grand total amount of federal funding received by the City of Pasadena was just under \$35 million, broken down as follows:

Program Type	Amount of Federal Funds
Housing Programs (mostly Section 8)	\$17.8 million
Transportation related capital programs	\$6.8 million
Public Health Programs	\$3.5 million
Foothill Workforce Development Board	\$3 million
Nutrition Programs	\$1.7 million
Non-capital Transportation programs	\$1 million
Public Safety (Police & Fire)	\$768,000
Public Art	\$91,000
TOTAL	\$34.65 Million

It is worth noting that the President's proposed budget, if enacted, would significantly reduce this level of funding.

**FISCAL IMPACT:**

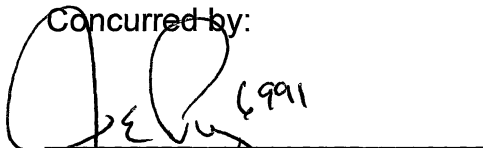
Various studies indicate that immigrants contribute hundreds of billions of dollars to the American economy. A 2014 study conducted by USC estimated that undocumented immigrants contribute \$130 billion annually to California's economy and constitute 10% of the workforce. As outlined above, the City routinely received tens of millions of dollars annually from the Federal government to operate programs serving the communities most needy and benefiting the overall well-being of the City.

Respectfully submitted,



STEVE MERMELL  
City Manager

Concurred by:



PHILLIP SANCHEZ  
Chief of Police



JENNIFER CURTIS  
Director of Human Resources

## ATTACHMENTS

- A. City Council Resolution No. 9319 (A Resolution of the City Council of the City of Pasadena Supporting a Humane and Comprehensive Immigration Reform Proposal.
- B. (Proposed by the Advocates) Pasadena Police Department Immigration Status and Bias-Free Policing Policy.
- C. Pasadena Police Department Policy 428 – Immigration Policy (proposed)
- D. (Proposed by the Advocates) A Resolution of the City Council of the City of Pasadena, California to Welcome, Protect and Defend All Residents By Making Pasadena a Sanctuary City.
- E. City of Pasadena Manual of Personnel & Administrative Rules, Section 2, City-Wide Policies and Standards of Conduct, AA. Standard of Conduct Regarding Confidentiality.
- F. Senate Bill 54 (Sanctuary State)