



POLICE DEPARTMENT  
CITY OF BURLINGTON

MEMO

To: Welcoming City Resolution Subcommittee, Burlington City Council  
Jane Knodell, Chair

From: Burlington Police Commission  
Sarah Kenney, Chair

Date: April 2, 2017

Re: Fair and Impartial Policing Policy

Pursuant to the request of the Welcoming City Resolution Subcommittee, the Police Commission undertook a process to gather feedback from the Burlington community about the City's draft proposed Fair and Impartial Policing Policy for the City. The Commission received input during the public forum portion of our regular meeting in February, and we held four separate public forums with the specific goal of gathering input on this proposed policy. One forum on February 17th was held in conjunction with Migrant Justice/Justicia Migrante and was attended by no fewer than 30 people, many of whom were immigrants to the Burlington community with a variety of immigration statuses. Two forums were held on March 23rd at St. Joseph's School in the Old North End of Burlington with the assistance of the Association of Africans Living in Vermont and the Family Room, one during the day and one in the evening. Simultaneous interpretation was provided in six different languages for the forum during the day and at least 30 community members from various New American communities attended. The fourth forum was held at Champlain College in the evening of March 22nd.

The overwhelming message from our community, from both long-time citizens and more recent arrivals, was to do whatever we can as a City to make our Fair and Impartial Policing Policy as strong as possible. Much fear was expressed, even at the February forum prior to recent ICE detentions of Migrant Justice activists. Residents, including U.S. citizens, expressed overwhelming fear of federal immigration enforcement officials and their concern that local police officials not act as federal immigration enforcement. They spoke passionately about the need for a Fair and Impartial Policing policy that protects all Burlington residents from federal overreach. It is worth noting that the Migrant Justice activists who were recently arrested and detained by federal officials in

Burlington spoke at the commission's forum in February about the palpable fear in immigrant communities under the new administration.

We include here some excerpts from the testimony we heard at our public forums, as illustration of the strong sentiments expressed:

- The state policy should be passed here and Burlington should hew as closely as possible to the model policy. This would protect Burlington should any part of the state policy come under contention.
- Not too long ago I used to live in NY where there are no FIPP laws, where rights of immigrant communities are ignored, where there is no trust between Latino communities and police. It's sad to live in a place where you don't feel safe or welcome, in a place where you can't call the police to come and protect you. One of the reasons why I moved here to make a life is because there is a law that protects my community. I've been in Burlington for 8 months and it is a safe community but there is still a lot of work to be done. It's important because I'm still afraid to call the police. That's why it's important to pass the FIPP.
- As an immigrant community we're dealing with difficult times. I hate to have to say this, but today being an immigrant in this country it's the first time I've felt afraid. I'm a mother of children who are citizens here. It's hard to think that we have laws that don't protect people. It's important for Burlington to pass the FIPP. I don't want to be afraid anymore. I want to walk around with my daughters and feel safe.
- I've been working with white community members as a family friend for 12 years. Since the [federal] executive order, it's hard to trust and I'm scared. I lost all that relationship. It's not only me, it's also the children who are going to school – they lost trust with their friends. Lost relationships and trust in the community. It's scary.
- I'm part of the migrant community here in Vermont... It's important to remember that humanity means everyone. We are all human. I've lived in Vermont for many years. It was hard before the FIPP - we didn't feel the support and it was hard to move around in the state. Our community has fought really hard to make these changes. We need this policy to make sure our communities feel safe and secure. For many years, my community has felt discrimination. Not only my community, but other immigrant communities in VT. We need to stand together. Although the FIP has some parts that are optional, we need to adopt the full policy to make sure that we are protected.
- I moved to VT about 3 years ago. When I moved, you could still feel the fear that the migrant community felt about taking their children to school or grocery shopping. After the driver's license law people felt safer to take care of their basic needs. But people were still being profiled. So we got together and worked on the FIPP. That has made a tremendous difference. People now come to Burlington to shop, to go dancing. Our community has been suffering for many years. FIPP isn't a simple law, it represents a lot of work by our community. Burlington can't take a step back. We need to stand for human rights. We need to adopt the full

FIPP. The elements are an essential part of the policy. Send a message that we stand with our community.

- I've been in this country for 13 years. Those years have been difficult because of the fact that I'm an immigrant. The prospect of leaving my house when I know a police officer could stop me and call immigration on me is very daunting. I've lived in this country for quite a while and during that time I've had to take precautions to make sure I only leave my house when I need to, to take care of basic necessities. There are often times when I think about leaving my house and going to the store to buy something but I stop myself because I'm worried about running into a police officer who could stop me and call immigration on me. I want that fear to end. I want to feel secure and safe in leaving my house and going to the store to buy things that I need and I want to feel safe to do that. It would be a blessing and a great happiness for me for the police to hear us and adopt the fair and impartial policing policy. Unfortunately, our whole community can't be here tonight. Many of us are working at the moment and will be working through the night. I woke up at 2:30 this morning to start my shift and have been awake ever since. I'm here because I want to stand up alongside my fellow immigrants and ask the city to please listen to us. This is what we're all asking for and I hope it's taken into account.
- We don't want to see a policy where police are looking at immigration status. That's the thing we don't to see – it's very scary. We don't want police coming into our houses with immigration to take people out of their houses.
- Vermont used to be a peaceful place. Has that changed?
- We are living with fear and it feels like a change.

The Police Commission recommends that the City adopt the latest draft policy written by the City Attorney in collaboration with attorneys from the ACLU and Migrant Justice, but we recommend the removal of 3 specific provisions that create ambiguity:

Article V, paragraph D, the language in italics: "not intended to prohibit or restrict...any individual."

Article VIII, paragraph A3, the language in red italics: "Officers shall not report or communicate...consent by the victim/witness."

Article VIII, paragraph E1, the language in red italics: "although they may communicate...immigration status."

In place of those three provisions, we recommend including at the end of the policy model language provided by the ACLU pertaining to 8 USC 1373 and 1644:

*"1373 Rule:* Under 8 U.S.C. § 1373 and 8 U.S.C. 1644, federal law prohibits Burlington officials from imposing limits on maintaining, exchanging, sending or receiving information regarding citizen and immigration status with any Federal, State or local government entity. Nothing in Burlington policy is intended to violate 8 U.S.C. § 1373 and 8 U.S.C. 1644."

The commission also recommends that the City policy be amended to require a single point of contact at BPD for requests for cooperation from federal immigration authorities. This point of contact should document and disclose to the Chief any communication with federal agencies related to immigration violations, including any information that individual officers may have disclosed to authorities of their own volition, based on knowledge that was obtained through other means in compliance with the FIP policy.

The commission also recommends that the department review any records of communications initiated by BPD officers to federal immigration officials regarding specific individuals. This review should be conducted by BPD supervisors and intended to ensure that officers are not violating the policy in acquiring or disclosing that information.

We strongly encourage the City to adopt as strong a Fair and Impartial Policing Policy as possible. Given national events and local federal action against community activists, it feels more important than ever to do whatever we can at home to protect Burlington residents and visitors and to build community. We are stronger as a community because of the vibrant diversity cultivated by our work to be a welcoming city. We should do whatever we can to protect all members of our community.