

# MEMORANDUM

**To: Interested Parties**

**Date: February X, 2021**

**RE: Colorado Immigrant Data Privacy: The Issue, The Impact, & The Solution**

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## I. Summary

The Colorado Immigrant Rights Coalition (CIRC) and the I Drive Coalition uncovered a pattern of collaboration between Colorado Department of Motor Vehicles (DMV) employees and Immigration and Customs Enforcement (ICE) agents through a Colorado Open Records Act (CORA) request to the Department of Revenue (DOR). The hundreds of emails showed that staff within the DMV fraud investigations unit were operating as unofficial deputized immigration officers for ICE by proactively helping ICE identify, surveil and detain individuals — in all instances without ICE having ever presented a criminal warrant to obtain the information. This confirmed the worst fears of the immigrant community, who placed trust in government services by sharing sensitive information to access services, like a driver's license. ICE exploited this trust by working with state agents to detain and separate Colorado families.

The state of Colorado has the responsibility to pass a permanent legislative solution that rebuilds and restores the community's trust by protecting the privacy of all. State Senator Gonzales and State Representative Gonzales-Gutierrez are championing a bill to protect the private information that Coloradans have shared with State agencies that builds on guidance signed by Governor Polis in May 2020. The need to rebuild trust within vulnerable communities is urgent; people fear accessing needed services and participating in coronavirus response programs, like contact tracing. Further, efforts to rebuild trust and protect residents' privacy will be crucial to the successful rollout of the vaccine in communities across the state.

## II. SB 13-251 encouraged undocumented immigrants to share their information - information that was then weaponized against them.

In 2013, the Colorado State Legislature took an important step to ensure our roads and communities were safer by passing legislation so that all Coloradans, regardless of their immigration status, could access a

driver's licenses (SB13-251). In turn, 150,000 undocumented Coloradans came out of the shadows and in good faith provided the Colorado DMV with the necessary documents and information to obtain their SB 251 licenses. But over time, the community shared a growing number of anecdotes about how ICE was using DMV records to separate Colorado families.

Amidst growing concern from the immigrant community, the Colorado Immigrant Rights Coalition submitted a CORA request to the DOR CORA Manager. In response, the DOR CORA Manager provided records of 235 emails and communications between DOR employees and immigration agents that took place between February of 2018 and May of 2020.

The hundreds of emails we received revealed a pervasive culture and practice of active collaboration between our state's DMV with federal immigration enforcement efforts that went well beyond what is required by state or federal law. In fact, the emails showed that staff within the DMV fraud investigations unit were operating as unofficial deputized immigration officers for ICE, and were proactively helping ICE identify, surveil and detain individuals — in all instances without ICE having ever presented a criminal warrant to obtain the information.

On May 20, 2020, Governor Polis signed "[Guidance on Data Privacy](#)" to establish consistent data privacy practices within Colorado state departments. The guidance creates restrictions on requests for personal information, requiring that they may be approved only if they support an active criminal investigation or are in response to a possible crime in progress. The guidance required the DMV and the Motor Vehicles Investigation Unit to implement new procedures to manage requests and designated employees who would implement the changes. However, the current guidance could be removed by a future governor and leaves loopholes for ICE to exploit.

### III. Misuse of data has been a concern for the immigrant community for years.

In March, 2020 when [two Denver public school parents were detained](#) by ICE while driving, they wondered if it was a consequence of sharing information on their driver's license applications. The question plagued them like it has countless families separated by ICE: how did they get my personal information? Many immigrants and community advocates suspected the DMV was the culprit, and as reports from around the country began disclosing the use of DMV data in other states, [such as this exposé in Washington](#), these fears grew. CIRC and the I Drive Coalition's access to these CORA'd emails confirmed the community's concerns that this too was happening in Colorado.

Over 150,000 immigrant community members placed trust in our government by sharing personal information to access a driver's license in Colorado. They complied with the rigorous process laid out by the general assembly to obtain their identification document and shared their information with the state government in good faith. Their information was then weaponized to carry out immigration enforcement actions. ICE exploited their trust.

Supporting Materials:

- Colorado Fiscal Institute: [The Benefits of Allowing All Immigrants to Access Driver's Licenses](#)
- Washington Post: [FBI, ICE find state driver's license photos are a gold mine for facial-recognition searches](#)
- The Atlantic: [ICE and the Ever-Widening Surveillance Dragnet](#)
- The World: [Here's why the US Census Citizenship Question Stokes Mistrust](#)

#### IV. Mistrust of government leads to health disparities for immigrants, as evidenced by COVID-19.

Unsurprisingly, the fear of information being shared with immigration agents is one of the main barriers immigrants face to access much needed services in the pandemic. Without trust in government services, [immigrants are reluctant to participate in contact tracing programs](#) or access a driver's license, programs which make all Coloradans safer.

Studies of the effects of COVID19 show that Black and Latino residents are infected at higher rates, are dying at higher rates, and have less access to medical treatment and the vaccine in Colorado and nationally. The history of systemic racism means frontline workers are disproportionately people of color and immigrants. For example, [more than 5 million essential workers are undocumented](#), making them more vulnerable to the lethal effects of the pandemic.

In addition to the systemic barriers immigrant communities face in seeking health care, they are also hesitant to access services out of fear they may face immigration consequences. Many immigrants and undocumented people live in a persistent state of fear (e.g., possible deportation, driving without a license, public charge), after being traumatized for years under the Trump deportation machine. When fear stops people from utilizing needed services, such as COVID-19 testing, contact tracing, and vaccination or even reporting crimes, our entire community is less healthy and less safe. For the recovery of our state and nation, it is vital that trust in government services is restored. Lack of trust in public services negatively impacts our COVID-19 response and recovery, and crimes go unreported and justice goes unserved, among other consequences.

##### Supporting Materials:

- Colorado Sun: [In Denver, getting the coronavirus vaccine may depend on where you live](#)
- Colorado Sun: [Contact tracing in Colorado immigrant communities is most effective with voices from within](#)
- CPR: [Undocumented Immigrants Face Different Pandemic Struggles And A Complicated Web of Resources](#)
- ACLU: [New ACLU Report Shows Fear of Deportation Deterring Immigrants from Reporting Crimes](#)
- NY Times: ['We're Petrified': Immigrants Afraid to seek Medical Care for Coronavirus](#)
- FWD.us: [Immigrant Workers are Crucial to COVID-19 Recovery](#)
- NPR: [As Pandemic Deaths Add up, Racial Disparities Persist-- and in some cases Worsen](#)
- Denver Post: [Colorado Latinos Grapple with Increased Risk of Infection](#)

- Centers for Disease Control and Prevention: [Disproportionate Incidence of COVID-19 Infection, Hospitalizations, and Deaths Among Persons Identifying as Hispanic Latinos- Denver, CO](#)
- 1A: [‘It’s so Hard To Get Help:’ An Undocumented Immigrant and A COVID-19 Diagnosis in Colorado](#)

## V. We need a process for rightful requests for information to be submitted, vetted, and granted.

Personally Identifiable Information (PII) was being shared without proper permission or authority resulting in non criminal violations being treated as criminal violations for the sole purpose of immigration enforcement. The current guidance, signed by Governor Polis in May 2020, could be removed by another governor and leaves loopholes for ICE to exploit. That’s why Senator Gonzales and Representative Gonzales-Gutierrez’s bill requires a warrant, order, or subpoena to access sensitive information from state agencies and ensures information held in state databases cannot be used for immigration purposes. This process will allow for the system to work as designed while respecting people’s constitutional rights.

Our state has the responsibility to pass a permanent legislative solution that rebuilds and restores the community’s trust by protecting the privacy of all Coloradans, regardless of who is in executive office.

Washington, California, Vermont, New York, New Jersey, and Illinois have all taken steps to better protect sensitive PII shared as part of driver’s license programs. Colorado must continue on this path by ensuring that when people share personal information with the government they can trust that their privacy is protected. From SB13-251 opening driver’s license applications to all, to SB13-003 granting in-state tuition to undocumented Coloradans, to SB20-83 keeping ICE out of courthouses, Colorado has already taken historic legislative steps to ensure that everyone -- no matter their race, class or immigration status -- can live healthy, fulfilling lives.

Supporting Materials:

- National Immigration Law Center: [Protecting State Driver’s License Information](#)
- NBC San Diego: [New Law Would Limit Access to Driver’s License Records of Undocumented Immigrants](#)

## VI. Safeguarding private information should be a priority for all Coloradans.

While this bill safeguards immigrants specifically, protecting access to PII has wide ranging positive implications for all Coloradans, regardless of their immigration status. For example, the bill protects data on religion, disability, and biometrics, in addition to many other protected categories, in order to eliminate the potential for discrimination based on any one of those characteristics. As mentioned, it also supports a

safer and healthier Colorado overall. By building trust between immigrant communities and the government, all Coloradans benefit.

## VII. Main Findings from the CORA Responsive Documents

Of the 235 communications between DOR employees and ICE agents, 56.6% of the communications were initiated by DOR employees to ICE agents. The entirety of the DOR Motor Vehicle Investigations Unit, in addition to DOR Comcenter employees, were involved in communications with ICE agents, including occasional department-wide email threads.

### Example Email Communications:

- On 1/29/2020 at 4:25pm DOR Employee 3 writes to ICE agent Jeff Hamilton: "I have attached her recent DMV application with current contact information just in case you need it." Hamilton replies: "She needs to be arrested! Visa overstay." **Employee 3 provides PII on a visa overstay only.**
- On 1/27/2020 at 12:24pm Employee 1, DOR Employee writes to Hamilton: "Thanks for the info. I am trying to ID whom I believe is his brother that is reportedly staying with him. Any chance ICE would like to pick up REDACTED and do me a huge favor by IDing anyone else staying at the same place? The owner of the apartments at REDACTED in REDACTED confirmed REDACTED lives in REDACTED with his lady REDACTED". **Employee 1 requests Hamilton make an immigration arrest.**
- 12/27/2019 at 3:20pm- ICE agent Hamilton writes: "Well do you think you will need him for court? We can remove him if you want..." Employee 1, DOR Employee replies: "Awesome! On this one he is just a witness to my case. No charges for him on our side. I appreciate you confirming the number was not valid for him." **Employee 1 is involved in making decisions about immigration arrests.**
- On 2/28/2020 at 10:05am an internal communication regarding the DOR Comcenter shows the consistency of communication between the DMV and ICE: "**Master files provide dossier and info to ICE on daily basis.**"
- On 6/4/2019 at 11:52am there is a typical exchange between Employee 1 and Jeff Hamilton, ICE Agent, regarding sharing of information of a single individual and strategizing about best ways for both to bring criminal charges.
- On 11/19/2019 at 9:45am Employee 4, DOR Employee, **shares information to coordinate possible stop to naturalization application.** Employee 4 states: "Why he has temporary status is due to a pending deportation status."
- On 10/11/2019 at 12:58pm-- Employee 1 contacts ICE regarding an SB251 applicant: "If you could advise on status for issuance purpose since it looks like he had an expired EADS Card." **Employee 1 alerts the ICE official about a person whose EAD has expired and no longer has a lawful status for federal immigration purposes.** The SB251 license is available to people who have expired EAD cards or have lost their immigration status.
- On 8/15/2019 at 12:57pm- Employee 2 writes: "I met with REDACTED. She was legal at one point with an EADS card and SSN that allowed her to work, but those documents have long

expired. Can you check status?" **Employee 2 is proactive alerting ICE to someone who no longer has immigration status.**

- On 6/20/2019 at 11:17 ICE Agent Jeff Hamilton provides documentation to Employee 3, DOR Employee, through a password and replies,
  - "Let me know asap if you want me to order the file; she'll likely be an arrest for us in addition to any state criminal charges you folks might file. **Good hunting!** Jeff... Definitely we'd like to get her current info (home, address, phone, work address, vehicle, whatever else you can share!)... Jade, are you able to give me current info on this subject? Residence, employment, phone, etc?"
  - Employee 3 replies: "Yes, I'm just waiting on her to call me back.... The address we have on file for her is from 2001 so I'm not sure if it's current. I will get all of her current info as soon as she calls me back. She will call because I have her record blocked from getting any kind of ID and I know she wants an ID :-)".
  - **Employee 3 blocks a woman from getting an ID in order to obtain updated contact information to provide to ICE Agent for arrest.**
- On 6/4/2019 at 11:52am- ICE Agent Jeff Hamilton writes: "He will be a good criminal case for us as well. We're not going to show up and arrest at your place but any info you can share that will help my guys put cuffs on will be greatly appreciated. If the guy you interviewed matched the photo I sent, that's someone we could arrest. Going criminal?" Employee 1 replies: "He's definitely a criminal case for us, happy to double-whammy." **Employee 1 sent Jeff his current address and profession in order to collaborate with ICE on "double-whammy" charges.**
- On 2/1/2019 at 4:07pm-Employee 1 writes: "I appreciate your help if you can get him in custody." Hamilton replies: "You said a crim case? We should be able to get him into custody in fairly short order. Good hunting!" **ICE agent Hamilton consistently signs his emails "good hunting" after DMV employees reach out with information, showing the pervasive culture of dehumanization in their departments.**
- On 10/23/2018 at 8:21am- ICE agent Jeff Hamilton writes: "He is a fugitive in my case load and is in dire need of arrest. Let me know when you have him coming in, please!"
- 11/18/2019 at 11:31am- ICE agent Jeff Hamilton writes: "I'm looking for facial recognition to run as far and wide as possible." **The DMV consistently ran facial recognition requests for ICE with no evidence of a criminal case, or a warrant, order or subpoena.**

**The communications also demonstrate a pattern of offensive and unprofessional aggressions against Colorado's immigrant community, including the following examples:**

- 10/3/2019 at 9:29am "Password is the usual! Good Hunting!"
- 12/6/2019 at 1:50pm "It wouldn't surprise me if she's already back from Mexico. Good Hunting!"
- 2/15/2019 at 10:52- ICE Agent Hamilton: "unfortunately the pic is from his last time with us in 2012; I reached out to the Indiana Fusion Center requesting a DOC intake photo. Good hunting!"
- 01/10/2019 at 4:06pm--Employee 1 says: If I remember correctly their cases are handled by the Washington State Patrol. If you get any liberal pushback that could be another point of contact. I checked through AAMVA and couldn't get any pictures to pop up via the State 2 State (problem driver system). Although my experience with this wonderful system is most states never attached their photos so they are likely available but just don't come up..." Jeff Hamilton says: "Thanks [Employee 1]; **based on my experience any request from ICE to a DMV on the Left Coast**

**will not be honored**". Employee 1: "Sorry to hear the political madness in Washington made it back to your office.... are the dossiers enough or do you need the ten print card." Jeff Hamilton: "[Employee 1], we have nothing on this subject, any chance you have prints on the imposter?"

- 3/28/2018 at 7:38am Employee 2: "I'm putting the finishing touches on a criminal filing on REDACTED... can you tell me if he was ever lawfully admitted to the US and issued a SSC? I've attached the dossier. **Last year he applied for a license under the SB-251 process which confirms that he's illegal**" "Did you get my email about the CO impose using the name REDACTED.? ..... REDACTED **From his facebook page** it appears he may be from Peru."
- 11/18/2019 at 1:31pm-- Jeff Hamilton says: "I'm looking for facial recognition run as far and wide as possible." Employee 2 responds: "**Can you hook this brother up?**" Employee 1 responds: "Clearview showed a match to an Instagram profile that was taken down. There are 2 screenshots attached that show under which profiles those photos were related." Jeff Hamilton later says: "[Employee 3] is going to run the DMV system in the morning!"
- 11/26/2018 at 5:18pm - - Jeff Hamilton: "Throw the book at him and please feel free to loop me in. **He's a good catch for us** and I'm happy to help and collaborate in any way I can."
- On 2/5/2020 at 4:40pm Employee 1 contacts ICE about criminal case involving ID theft. He is investigating an EADs card and asks, "also, would a new criminal case impact his employment authorization status?"
- 7/18/2019 at 8:49- Employee 2: "meeting with female REDACTED, can you tell me what he correct identity is?" Attached a photo Jeff Hamilton: "I had a finding Dori moment-- as soon as I saw your email I remembered you invited me to that party, and I think I missed it due to a family emergency.... so sorry! I'll dig into this...". Employee 2: "Actually \_\_\_\_ birthday party is this saturday if you would like to come". Jeff Hamilton: "Oh good! What time?"