



CITY OF
BLOOMINGTON
SPECIAL SESSION
COUNCIL MEETING
DECEMBER 18, 2017

AGENDA



**SPECIAL SESSION MEETING AGENDA
OF THE CITY COUNCIL
BLOOMINGTON CENTER FOR THE PERFORMING ARTS
AUDITORIUM
600 N. EAST STREET, BLOOMINGTON, IL 61701
MONDAY, DECEMBER 18, 2017; 5:00 P.M.**

1. Call to Order
2. Roll Call of Attendance
3. Public Comment
4. Presentation, Discussion and Direction on a Welcoming City Ordinance. *(Presentation by Jeff Jurgens, Corporation Counsel and Brendan Heffner, Police Chief 10 minutes, Council discussion 15 minutes.)*
5. Presentation and discussion of The Downtown Task Force Final Report. *Discussion only. (Presentation by the Downtown Task Force 10 minutes, Council discussion 20 minutes.)*
6. Adjourn (approximately 6:30 PM)



**SPECIAL SESSION MEETING
AGENDA ITEM NO. 4**

FOR COUNCIL: December 18, 2017

SUBJECT: Presentation, Discussion and Direction on a Welcoming City Ordinance

RECOMMENDATION/MOTION: Provide direction on whether a Welcoming City Ordinance should come back on a future agenda for action or otherwise provide direction to City staff on its desire regarding the issues raised.

STRATEGIC PLAN LINK: Goal 4 – Strong Neighborhoods

STRATEGIC PLAN SIGNIFICANCE: Objective: a: Residents feeling safe in their homes and neighborhoods

BACKGROUND: Proponents of a “Welcoming City Ordinance” have encouraged the City Council to consider and adopt an ordinance declaring Bloomington as a “Welcoming City.” A copy of the Ordinance, proposed by the Keeping Families Together Campaign, is attached. According to the website for Illinois People’s Action, which is a member of the coalition supporting the ordinance, it is designed to reaffirm to immigrants that the City values them and to strengthen the relationship between the immigrant community and the police by ensuring that police and city officials are not participating in federal immigration enforcement efforts. In addition to the proposed ordinance, documentation is also provided from the Illinois People’s Action website on Welcoming Cities, charts and other articles provided by the Keeping Families Together Campaign.

City staff has raised concern with a couple of different portions of the proposed ordinance, including the sections that: (1) prohibit expenditure of City resources, including time, to assist in immigration enforcement operations, including the provision of information, unless otherwise required by law; (2) require police to pre-consider the potential negative consequences of an arrest; and (3) implement additional training requirements. Proponents of the ordinance maintain these provisions are necessary to ensure that undocumented immigrants feel safe in reporting crimes, among other reasons.

Due to the recent implementation of the Illinois Trust Act, which dictates how local law enforcement in the State of Illinois are to interact and handle immigration issues, the Police Department maintains the type of additional regulations contained within the proposed Welcoming City Ordinance are unnecessary. (A copy of the Illinois Attorney General’s Law Enforcement Guide on the Trust Act is attached, as well as a copy of that new law) Specifically, it is the practice of the Police Department, as dictated by the law, to leave enforcement of immigration issues to Federal authorities. In addition, all City police officers are trained on the

- Documentation from the Keeping Families Together Campaign, including chart and news articles
- Illinois Trust Act (P.A. 100-463)
- Attorney General - Guidance to Law Enforcement: Authority Under Illinois & Federal Law to Engage in Immigration Enforcement
- U Visa Law Enforcement Certification Resource Guide
- U.S. Department of Justice – Certification of Compliance

**ORDINANCE NO. 2017 -
AN ORDINANCE RECOGNIZING THE IMPORTANCE OF THE IMMIGRANT
COMMUNITY IN THE CITY OF BLOOMINGTON**

WHEREAS, the City of Bloomington (“City”) is a home-rule municipality operating in McLean County, Illinois; and

WHEREAS, the City is a diverse community and stands by the famous and proud proclamation on the Statute of Liberty: Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore. Send these, the homeless, tempest-tost to me, I lift my lamp beside the golden door!; and

WHEREAS, the diversity of the City helps make it the Jewel of the Midwest and adds to the cultural, social and economic engines of the community; and

WHEREAS, the provision of municipal benefits, services, and opportunities is not contingent on matters related to citizenship or immigration status unless required by state or federal law, or court order; and

WHEREAS, the City does not discriminate against any person based upon the person’s actual or perceived citizenship or immigration status or the actual or perceived citizenship or immigration status of the person’s family member; and

WHEREAS, the City recognizes the arrest of a non-U.S. citizen increases that individual’s risk of deportation even in cases where the individual is found to be not guilty, creating a disproportionate impact from law enforcement operations and putting both police officers and community members at risk; and

WHEREAS, the Bloomington Police Department responds to requests from immigrant communities to defend them against all crimes, including hate crimes, to assist people with limited language proficiency and to connect immigrants with social services; and

WHEREAS, the Bloomington Police Department has worked tirelessly to develop a Community Policing program to build relationships with all populations within the community and help set the foundation for a safer and stronger community; and

WHEREAS, the City, along with its Police Department, acts without prejudice in defending persons against crimes; and

WHEREAS, it is the policy of the City to process in a timely manner certification requests by victims of a qualifying criminal activity; and

WHEREAS, the City is committed to working with community advocates, policy experts, and legal advocates to defend the human rights of immigrants; and

WHEREAS, the Mayor and Bloomington City Council desire to set forth a policy of openness and inclusion and approve this resolution in support of the City's strong and vibrant immigrant community;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bloomington, County of McLean, State of Illinois that:

Section 1. The City is committed to being a welcoming community where all our residents feel welcome, safe, and able to fully participate in, and contribute to, our City's economic and social life. We urge all residents of Bloomington to do their part in reaching out and welcoming all those who live in and visit our great city.

Section 2. The City is committed to abide by language set forth in SB0031 (the Trust Act).

Section 3. Any investigatory agency within the City shall consider any certification request related to an immigration benefit by any victim of a crime or their representative in a timely manner. In consideration of the certification request, the Agency will reference federal guidelines in determining the parameters of their discretion.

Section 4. The City shall not spend municipal resources, including time, to assist in any immigration enforcement operations, including requests for information about or requests to otherwise investigate or assist in the investigation of the citizenship or immigration status of any person, unless such inquiry or investigation is required by a court order or a state or federal law. Notwithstanding this provision, the City Attorney may investigate and inquire about citizenship or immigration status when relevant to potential or actual litigation or an administrative proceeding in which the City is or may be a party.

Section 5. To ensure equality in the execution of authority and uphold unity within the community, the City of Bloomington Police Department shall receive training in the potential consequences of any police investigation or arrest, including but not limited to immigration repercussions, in order to provide officers the knowledge necessary for them to properly exercise their discretionary authority in accordance with existing Police Department policies.

ADOPTED this _____ day of _____, 2018

APPROVED this _____ day of _____, 2018

APPROVED

Mayor

ATTEST:

City Clerk



[HOME \(/\)](#)
(<http://www.illinoispeoplesaction.weebly.com>)

[ABOUT \(/about.html\)](#)

[ISSUES \(/issues.html\)](#)

[BLOG \(/blog.html\)](#)



Welcoming Cities

Ordinances proposed for Bloomington and Normal, IL would declare each city to be a “welcoming city” for immigrants, which would reaffirm to immigrants that the city values them and strengthen the relationship between the immigrant community and the police by ensuring that police and city officials are not participating in federal immigration enforcement efforts.

Why the ordinance is important:

- **Signals respect for the contributions that immigrants make to the entire community.**

Immigrant families, and in particularly children, face disruption and separation due to the loss of family members to deportation and the fear of deportation. Immigration enforcement also takes a toll on businesses and industries that rely on immigrant workers.

- **Strengthens relationships between law enforcement and immigrant communities.** If

immigrants are reluctant to call local police for fear of the police’s cooperation with ICE, crimes go unreported, and perpetrators go unpunished. Law enforcement agencies should recognize the need to build trusting relationships with immigrant communities to enhance the entire population’s public safety.

Limits federal overreach. Federal requests for local assistance in immigration enforcement operations creates an unfunded mandate that pulls local resources away from local issues. Immigration status and law is a federal concern that should be handled by federal officials.

What it would do

- **Prohibit the police from using their resources to help federal Immigration and Customs Enforcement “ICE” agents in any way**, including prohibiting:

- * stopping or holding anyone based on immigration status
- * cooperating in ICE enforcement actions by providing surveillance or helping with raids
- * allowing ICE agents to question individuals in the custody of the police
- * Prohibit the city from entering a *voluntary* agreement to participate in 287(g), Secure Communities, or other *optional* federal enforcement programs
- Prohibit the city from collecting and sharing information on the immigration status of its residents
- Prohibit the city or city agents from threatening individuals based on their immigration status
- Prohibit the city from participating in voluntary federal registry programs based on religion (such as any future Muslim registry)
- Require city officials to consider requests for certification for U visas (a way for undocumented immigrants who have been victims of crime and have cooperated with officials to become documented, which is instrumental in building trust between crime victims and police)

Require the police to consider the risk of deportation when exercising its discretion to arrest individuals

What it doesn't do

- **Would not protect residents of the city from being deported.** ICE can still conduct enforcement operations such as knock on doors or conduct raids. It just prevents city resources from being used to help those operations.

- **Would not violate federal immigration laws.** The ordinance says local officials will not participate in *voluntary* programs designed to make local police do the job of federal officials.

Would not provide lawful immigration status. This can only be done by the federal government under federal law.

Links to proposed Welcoming city ordinances (/uploads/1/2/6/2/12620849/draft_bloomington_ordinance.pdf)

IMMIGRATION POLICIES and CITY OF BLOOMINGTON

What is the Illinois TRUST Act?

The Illinois TRUST Act is a bill that sets reasonable, constitutional limits on local police interaction with Immigration and Customs Enforcement (ICE), and fosters trust between local police and immigrant communities. The Illinois TRUST Act has been passed by the Illinois legislature, is expected to be signed into law in August 2017 and will become effective immediately.

What will be effects of the TRUST Act in Bloomington?

The Bloomington Police Department is already complying with the TRUST Act provisions. The Trust act will merely make local informal police policy into state law.

Policy	Current Level of Compliance
Prohibits local law enforcement from complying with ICE “detainers” and “warrants” which are not issued by a judge. (These are requests, not orders under federal law).	Full
Prohibits local law enforcement from stopping, arresting, searching, detaining, or continuing to detain a person solely based on an individual’s citizenship or immigration status.	Full
Local law enforcement must still comply with properly issued judicial warrants.	Full

What a “Welcoming City” ordinance could do on a local level that is not done in the TRUST Act:

A welcoming city ordinance could protect immigrant families by containing any of the policies listed below.

Policies In Other “Welcoming City” Ordinances	Current Level of Compliance	Why is this Important?	Suggested Ordinance Language
Require city officials to consider any and all requests related to an immigration benefit (i.e. U-Certification, T-Certification, etc.) put forth by a victim of crime or the victim’s representative, and use its discretion in certifying the request within 90 days of receiving the request.	→ Full	Protects victims of crime by allowing them access to relief that they are legally entitled to—but need certification from law-enforcement-agencies to be able to obtain.	<i>Any investigatory agency within the City shall consider any certification request related to an immigration benefit by any victim of a crime or their representative in a timely manner. In consideration of the certification request, the Agency will reference federal guidelines in determining the parameters of their discretion.</i>
Create a policy for handling certification requests, including designating an individual within the agency to receive and sign certification requests.	→ Full		
Publicize policy for handling certification requests.	→ Partial		

IMMIGRATION POLICIES and CITY OF BLOOMINGTON

Policies In Other “Welcoming City” Ordinances	Current Level of Compliance	Why is this Important?	Suggested Ordinance Language
<p>Prohibit the City of Bloomington from expending local resources (including time) to help ICE and Customs Border Patrol (CBP).</p> <p>This includes:</p> <ul style="list-style-type: none"> Collecting and sharing information on the immigration status of its residents Informing ICE that individuals have been arrested or are in custody Cooperating in ICE enforcement actions by providing surveillance or helping with raids Allowing ICE agents to question individuals in the custody of the police Requesting information about or otherwise investigate or assist in the investigation of the citizenship or immigration status of any person unless such inquiry or investigation is required by a court order. 	<p>→ Partial</p>	<p>Prevents the misuse of local resources to help federal agents detain and deport community members without valid warrants.</p> <p>Community members will be reluctant or unwilling to rely on local police for help if they fear that local police are communicating with federal agents, and that a call for help may lead to their removal.</p>	<p><i>No city employee shall spend municipal resources, including time, to assist in any immigration enforcement operations, including requests for information about or requests to otherwise investigate or assist in the investigation of the citizenship or immigration status of any person, unless such inquiry or investigation is required by a court order or a state or federal law. Notwithstanding this provision, the City Attorney may investigate and inquire about citizenship or immigration status when relevant to potential or actual litigation or an administrative proceeding in which the City is or may be a party.</i></p>
<p>Require training for police officers on new immigration guidelines so that they understand the increased risk of deportation that can come from any arrest (even if the arrested individual is never charged or convicted of a crime).</p>	<p>→ None</p>	<p>Supports community-oriented policing initiatives by providing training for officers</p>	<p><i>To ensure equality in the execution of authority and uphold unity within the community, the City of Bloomington Police Department shall receive training in the potential consequences of any police investigation or arrest, including but not limited to immigration repercussions, in order to provide officers the knowledge necessary for them to properly exercise their discretionary authority in accordance with existing Police Department policies.</i></p>

What the TRUST Act and the Welcoming City Ordinance would not do:

- **Would not protect residents of the city from being deported.** ICE can still conduct enforcement operations such as knock on doors or conduct raids. It just prevents city resources from being used to help those operations.
- **Would not violate federal immigration laws.** The ordinance says local officials will not participate in *voluntary* programs designed to make local police do the job of federal officials.
- **Would not violate state law.** The TRUST Act is a minimum requirement; cities can choose to limit cooperation more than the state-wide minimum.
- **Would not provide lawful immigration status.** This can only be done by the federal government under federal law.

RECENT NEWS STORIES REGARDING DEPORTATION CRISIS IN ILLINOIS

Immigration arrests up 38% nationwide under Trump, USAToday May 17, 2017

“But the data show that the biggest jump in arrests involved undocumented immigrants without a criminal record, a 156% increase from last year... ICE agents have been able to arrest more non-criminals due to an executive order Trump signed on Jan. 25. In that order, the president expanded the pool of undocumented immigrants considered “priorities” for deportation.”

<https://www.usatoday.com/story/news/world/2017/05/17/deportations-under-president-trump-undocumented-immigrants/101786264/>

Trump plans massive increase in federal immigration jails, USA Today Oct. 17, 2017

“In recent weeks, the Immigration and Customs Enforcement (ICE) agency has put out requests to identify privately-run jail sites in Chicago, Detroit, St. Paul, Salt Lake City and southern Texas, according to notices published on a federal contracting website... During the same span, ICE arrested 28,011 undocumented immigrants without a criminal record, a 179% increase from the same period in 2016, when the Obama administration mainly went after those who committed serious offenses.”

<https://www.usatoday.com/story/news/world/2017/10/17/trump-plans-massive-increase-federal-immigration-jails/771414001/>

Dreamers fear deportations from DACA data, Politico.com Sept. 5, 2017

“But DHS made it clear that deportation agencies could someday gain access to the detailed files it holds on 800,000 people who gave it personal information — past residential addresses, travel history, bank statements, fingerprints — so they could live and work legally in the U.S. For five years, undocumented immigrants who came to the U.S. as children have trusted the government with their personal data so they could get a job and stay in the country. Now there's a growing fear as the Trump administration prepares to end DACA that this information may be used to track them down and deport them.”

<https://www.politico.com/story/2017/09/05/dreamers-fear-deportation-immigrants-242351>

'Desperation and anxiety': DACA repeal worries Illinois businesses, could cost state economy \$2.3 billion, Chicago Tribune, Sept. 6, 2017

“(M)ore than 42,000 people in Illinois signed up for the program, instituted by then-President Barack Obama for people brought to the U.S. illegally as minors, who now must count on Congress to pass legislation so they can stay.”

<http://www.chicagotribune.com/business/ct-daca-rescinded-illinois-business-reacts-0906-biz-20170905-story.html>

Trump administration to end protected status for Haiti, CNN Politics, Nov. 21, 2017

“The Trump administration has announced it will end the Temporary Protected Status designation for Haiti by July 2019, potentially forcing tens of thousands of Haitian immigrants to either leave the US or live in the shadows.”

<http://www.cnn.com/2017/11/20/politics/dhs-temporary-protected-status-haiti/index.html>

Tucson's Police Chief: Sessions's Anti-Immigrant Policies Will Make Cities More Dangerous

By CHRIS MAGNUS DEC. 6, 2017

TUCSON — As the police chief here, I'm deeply troubled by the Trump administration's campaign against "sanctuary cities," which refuse to turn over undocumented immigrants to federal authorities. Washington is trying to retaliate against them by withholding funding for things like crime prevention, drug treatment and mental health programs.

Tucson is not technically a sanctuary city. But we are close to the border with Mexico and take pride in being welcoming to immigrants. Yet the government has warned us that our grants are in danger.

Still, while federal judges in Chicago and San Francisco [have ruled against](#) President Trump's executive order to withhold money from sanctuary cities, the administration's crackdown on immigrants is already having a chilling effect on police-community relations here. Many community members have told me that Latinos are not turning to us for help or working with us as often as they have in the past. Their growing sense of fear and distrust is clearly a consequence of the anti-immigrant rhetoric coming from Mr. Trump and Attorney General Jeff Sessions.

The Justice Department could be playing a key role in building on the Obama-era policing reforms that many of my fellow police chiefs strongly support. Instead, the changes it wants to make — to force local police officers to cooperate much more closely with federal immigration authorities — will compromise public safety by reducing community confidence in law enforcement.

To be sure, violent crime has risen in some cities over the past couple years. But the administration's response, paradoxically, is shortsighted policies that hurt local law enforcement agencies. An associate deputy attorney general, Steven Cook, recently explained the department's rationale this way: "It is unfortunate that cities like Chicago are more interested in implementing their extreme sanctuary policies that put criminal aliens back on the street than in addressing violent crime."

That couldn't be farther from the truth. Public safety has always been our top priority.

The message from Washington is that cities need to refocus on "law and order." Yet the harsh anti-immigrant rhetoric and Mr. Sessions's reckless policies ignore a basic reality known by most good cops and prosecutors: If people are afraid of the police, if they fear they may become separated from their families or harshly interrogated based on their immigration status, they won't report crimes or come forward as witnesses.

When crime victims and witnesses are unwilling to testify because they're afraid an Immigration and Customs Enforcement agent will be waiting to arrest them at the courtroom doors, real criminals go unpunished. It means drug dealers and people who commit domestic and sexual violence are free to exploit a voiceless class of victims; such criminals become a threat to us all.

It's a simple formula. When crimes go unreported and unsolved, criminals are empowered.

Most law enforcement professionals agree that "sanctuary city" designations mean little from a policing standpoint. Almost all local law enforcement agencies, regardless of the "sanctuary" or "immigrant-welcoming" policies adopted by their jurisdictions, cooperate with federal authorities to go after drug cartels, human traffickers and transnational gangs.

Yet these designations can serve a legitimate purpose: They make clear that everyone in our community has a role in preventing and reducing crime. And they send a message to all members of the public, whether they have immigration documents or not, that the police are first and foremost there to protect them.

The Justice Department wants Americans to believe that recent upticks in violent crime are tied to undocumented immigrants or cities' failure to "get tough on crime." The facts don't support this narrative. The reality is, cities with fewer crime-fighting resources often experience increases in crime. Crime also may increase in places where crime victims and witnesses are fearful of working with law enforcement.

The Justice Department's rush to undermine crime-reduction initiatives put in place under past administrations is damaging police-community relationships and dismantling valuable public safety resources. It has effectively abandoned collaborative "[reform agreements](#)" to help police departments mend or improve relationships with the communities they serve.

The Justice Department also no longer prioritizes working with local jurisdictions to carry out the recommendations of the 21st Century Policing Task Force, a team of police executives, criminal justice experts and community leaders. And now, critical federal funding, like Justice Assistance Grants, is threatened to advance an anti-immigrant agenda.

Mr. Sessions talks a great deal about the need to preserve "local control," yet he wants to dictate how local police agencies interact with their undocumented immigrant populations. The Trump administration seems to think it knows more about fighting crime than local police chiefs and sheriffs, and it is punishing cities that keep their officers focused on community needs rather than federal immigration enforcement.

Tucson has come too far to jeopardize reforms that strengthen relationships with the public we serve. Justice Department grants and other federal support funded through our taxes should not be tied to immigration policies.

Holding the needs of state and local law enforcement hostage to politics ultimately works against the interests of safety and justice.

Chris Magnus is Tucson's chief of police.

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AN ACT concerning government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Illinois TRUST Act.

Section 5. Legislative Purpose. Recognizing that State law does not currently grant State or local law enforcement the authority to enforce federal civil immigration laws, it is the intent of the General Assembly that nothing in this Act shall be construed to authorize any law enforcement agency or law enforcement official to enforce federal civil immigration law. This Act shall not be construed to prohibit or restrict any entity from sending to, or receiving from, the United States Department of Homeland Security or other federal, State, or local government entity information regarding the citizenship or immigration status of any individual under Sections 1373 and 1644 of Title 8 of the United States Code. Further, nothing in this Act shall prevent a law enforcement officer from contacting another law enforcement agency for the purposes of clarifying or confirming the nature and status of possible offenses in a record provided by the National Crime Information Center, or detaining someone based on a notification in the Law Enforcement Agencies Data Administrative System unless it is

clear that request is based on a non-judicial immigration warrant.

Section 10. Definitions. In this Act:

"Immigration detainer" means a document issued by an immigration agent that is not approved or ordered by a judge and requests a law enforcement agency or law enforcement official to provide notice of release or maintain custody of a person, including a detainer issued under Section 1226 or 1357 of Title 8 of the United States Code or Section 236.1 or 287.7 of Title 8 of the Code of Federal Regulations.

"Law enforcement agency" means an agency of the State or of a unit of local government charged with enforcement of State, county, or municipal laws or with managing custody of detained persons in the State.

"Law enforcement official" means any individual with the power to arrest or detain individuals, including law enforcement officers, county corrections officer, and others employed or designated by a law enforcement agency.

"Non-judicial immigration warrant" means a Form I-200 or I-205 administrative warrant or any other immigration warrant or request that is not approved or ordered by a judge, including administrative warrants entered into the Federal Bureau of Investigation's National Crime Information Center database.

Section 15. Prohibition on enforcing federal civil immigration laws.

(a) A law enforcement agency or law enforcement official shall not detain or continue to detain any individual solely on the basis of any immigration detainer or non-judicial immigration warrant or otherwise comply with an immigration detainer or non-judicial immigration warrant.

(b) A law enforcement agency or law enforcement official shall not stop, arrest, search, detain, or continue to detain a person solely based on an individual's citizenship or immigration status.

(c) This Section 15 does not apply if a law enforcement agency or law enforcement official is presented with a valid, enforceable federal warrant. Nothing in this Section 15 prohibits communication between federal agencies or officials and law enforcement agencies or officials.

(d) A law enforcement agency or law enforcement official acting in good faith in compliance with this Section who releases a person subject to an immigration detainer or non-judicial immigration warrant shall have immunity from any civil or criminal liability that might otherwise occur as a result of making the release, with the exception of willful or wanton misconduct.

Section 20. Law enforcement training. By January 1, 2018, every law enforcement agency shall provide guidance to its law

Public Act 100-0463

SB0031 Enrolled

LRB100 04996 RJF 15006 b

enforcement officials on compliance with Section 15 of this Act.

Section 99. Effective date. This Act takes effect upon becoming law.



Guidance to Law Enforcement:
*Authority Under Illinois and Federal Law
to Engage in Immigration Enforcement*

September 13, 2017



Over the past several months, officials at both the federal and state level have implemented changes to immigration enforcement policies and laws. On January 25, 2017, President Donald Trump issued an Executive Order entitled “Enhancing Public Safety in the Interior of the United States.”¹ Further, on August 28, 2017, Illinois enacted the Illinois Trust Act, a statewide law that clarifies and limits the authority of state and local officers to enforce federal civil immigration law or cooperate with federal immigration authorities.²

This guidance is intended to provide a summary of the President’s Executive Order and describe the new Illinois Trust Act. Based on the Executive Order and the Trust Act, this guidance will explain the limitations on the authority of local and state law enforcement to enforce federal immigration law. It also will provide guidance to municipalities and law enforcement about how the Executive Order and the Trust Act may affect any existing policies.

Illinois law enforcement agencies and officers³ are dedicated to protecting the communities they serve. Promoting public safety requires the assistance and cooperation of the community so that law enforcement has the ability to gather the information necessary to solve and deter crime. Law enforcement has long recognized that a strong relationship with the community encourages individuals who have been victims of or witnesses to a crime to cooperate with the police. The trust of residents is crucial to ensure that they report crimes, provide witness statements, cooperate with law enforcement and feel comfortable seeking help when they are concerned for their safety.

Building this trust is particularly crucial in immigrant communities where residents may be reluctant to engage with local police departments if they are fearful that such contact could result in deportation for themselves, their family or their neighbors. This is true of not only undocumented individuals who may be concerned about their own immigration status, but also citizens who may be worried about their parents, their children or other members of their family who immigrated to the United States.

Police officers will be hindered in maintaining public safety if violent crimes go unreported or witnesses withhold information.⁴ For the safety of the community and to effectively carry out their responsibilities, law enforcement have an interest in making sure that their policies and conduct do not create barriers that discourage or prevent cooperation from the immigrant community and their families.

¹ Executive Order 13768 of January 25, 2017, 82 Fed. Reg. 8799 (Jan. 30, 2017).

² Illinois Trust Act, Ill. Public Act 100-0463 (2017).

³ Throughout this guidance, “Illinois law enforcement” is used to describe state, county, and local law enforcement agencies in Illinois such as municipal police departments, county sheriffs’ offices, Illinois State Police and other non-federal law enforcement authorities, including campus police departments of public and private higher education institutions.

⁴ See James Queally, *Latinos Are Reporting Fewer Sexual Assaults amid a Climate of Fear in Immigrant Communities, LAPD Says*, LOS ANGELES TIMES (Mar. 21, 2017), <http://www.latimes.com/local/lanow/la-me-ln-immigrant-crime-reporting-drops-20170321-story.html>.

Executive Summary

Federal and state law – including the newly enacted Illinois Trust Act – limit the authority of Illinois law enforcement agencies to engage in immigration enforcement activities. All law enforcement agencies and officers must be aware of and stay within these limitations when conducting law enforcement activities. This guidance provides an overview of relevant federal and state law and may be a useful resource to Illinois law enforcement agencies. In summary, based on constitutional protections, federal and state statutes, and policy considerations, Illinois law enforcement officers and agencies:

- Shall not stop, search, or arrest any individual on the sole basis that the individual is undocumented; arrests may be made only when Illinois law enforcement has an arrest warrant or probable cause to believe that a criminal offense has been committed;
- Are in violation of state law and constitutional protections if they detain an individual pursuant to an ICE detainer beyond his or her normal custody release date;
- Are not required to participate in immigration enforcement activities and shall treat a request from federal immigration authorities for access to detention facilities or individuals held by local authorities as a request, rather than an obligation;
- Are not required to inquire or collect information about individuals' immigration or citizenship status;
- Should consider whether any internal policies regarding sharing immigration status information with federal immigration authorities will promote trust and confidentiality in their communities;
- Should consider requiring all officers to identify the jurisdiction they represent when engaging with community members or knocking on doors to encourage transparency and cooperation and to avoid any concern or confusion about whether the officers work for federal immigration authorities.

I. Immigration Enforcement Generally

Immigration is a matter of federal law.⁵ Although some provisions of federal immigration statutes are criminal, deportation and removability are matters of civil law.⁶ The role of Illinois law enforcement in enforcing the civil portions of immigration law is limited.⁷

a. *Immigration enforcement activities.*

Illinois enforcement officers are permitted to enforce federal civil immigration law only in those limited circumstances where state and federal law authorize them to do so. There are only two circumstances where Illinois enforcement has been permitted by *federal law* to engage in immigration enforcement:

- Illinois law enforcement is permitted to arrest and detain an individual who has already been convicted of a felony and was deported, but returned to or remained in the United States after that conviction.⁸
- Illinois law enforcement may enter into a formal working agreement with the Department of Homeland Security (known as a Section 287(g) agreement) to assist in the “investigation, apprehension, or detention of aliens in the United States.”⁹ Pursuant to federal law, a law enforcement agency may enter into any such agreement only to “the extent consistent with State and local law.”¹⁰ **To date, there are no existing 287(g) agreements in Illinois.**¹¹

Even in those instances where federal law allows enforcement of immigration law, there is no express or inherent authority under Illinois law that permits Illinois law enforcement to enforce federal immigration law.¹² Further, as discussed below, Illinois law now expressly *prohibits*

⁵ *Arizona v. United States*, 132 S. Ct. 2492, 2498-99 (2012).

⁶ See *Gonzalez v. City of Peoria*, 722 F.2d 468, 474 (9th Cir. 1983) (discussing the distinction between criminal and civil federal immigration law).

⁷ *Id.*

⁸ 8 U.S.C. § 1252c.

⁹ 8 U.S.C. § 1357(g) (Section 287(g) of the Immigration and Nationality Act).

¹⁰ *Id.*

¹¹ This guidance is not intended to address Detention Services Intergovernmental Agreements, or any other contracts for the housing, safekeeping and subsistence of federal detainees, entered into between the U.S. Department of Justice and Illinois law enforcement agencies.

¹² See *People v. Lahr*, 147 Ill. 2d 379, 382 (Ill. 1992) (recognizing that the authority of local police officers to effectuate an arrest is dependent on the statutory authority given to them by the political body that created them); *Gonzalez v. City of Peoria*, 772 F.2d 468 (9th Cir. 1983) (requiring that state law grant local police the “affirmative authority to make arrests” under the specific provisions of the Immigration and Nationality Act that they sought to enforce).

Illinois law enforcement officials from engaging in certain actions to ensure that they do not enforce federal immigration law without proper legal authority.¹³

b. Immigration detainers and administrative warrants.

The Department of Homeland Security and ICE issue “Immigration Detainers” or “Hold Requests” when they have identified an individual in the custody of Illinois law enforcement who may be subject to a civil immigration removal proceeding.¹⁴ An Immigration Detainer is a notice from federal authorities that an individual in the custody of Illinois law enforcement may be subject to civil immigration proceedings, and it asks Illinois law enforcement to detain the individual for up to 48 additional hours past his or her release date to allow federal authorities to assume custody.¹⁵

On March 24, 2017, ICE issued a new policy establishing that all detainer requests (Form I-247A) will be accompanied by one of two forms signed by an ICE immigration officer: either (1) Form I-200 (Warrant for Arrest of Alien) or (2) Form I-205 (Warrant of Removal/Deportation).¹⁶ These forms are administrative warrants signed by ICE officers that authorize other ICE officers to detain an individual. They are not criminal warrants issued by a court and they do not constitute individualized probable cause that an individual has committed a criminal offense. Similarly, Illinois law enforcement is not authorized to arrest or detain an individual based on the previously issued Form I-247D (Immigration Detainer – Request for Voluntary Action), Form I-247N (Request for Voluntary Notification of Release of Suspected Priority Alien) or Form I-247X (Request for Voluntary Transfer). Only federal officers have the authority to arrest an individual for violation of civil immigration law without a criminal warrant.¹⁷ Even if the individual may be subject to removal because he or she was convicted of a criminal offense, the removal proceeding and determination (through an order of removal issued by a civil court) is a matter of civil immigration law.

c. Sharing information with federal immigration authorities.

Under federal law, no state or local law or policy may prohibit any government entity or official from sharing information about the immigration status of an individual with federal authorities.¹⁸ As will be discussed further below, this federal law does not *require* Illinois law

¹³ This guidance contains a review of federal and state law. It is recommended that Illinois law enforcement agencies further consult with any local ordinances that may cover the topics discussed herein.

¹⁴ See 8 C.F.R. § 287.7; U.S. Immigration and Customs Enforcement, Policy No. 10074.2 “Issuance of Immigration Detainers by ICE Immigration Officers,” (March 24, 2017), *available at* <http://bit.ly/2q0QEJW>.

¹⁵ See *United States v. Abdi*, 463 F.3d 547, 551 (6th Cir. 2006).

¹⁶ U.S. Immigration and Customs Enforcement, Policy No. 10074.2 “Issuance of Immigration Detainers by ICE Immigration Officers,” (March 24, 2017), *available at* <http://bit.ly/2q0QEJW>.

¹⁷ *Arizona*, 132 S. Ct. at 2505-06; 8 U.S.C. § 1357.

¹⁸ 8 U.S.C. § 1373.

enforcement to share citizenship or immigration status information with federal authorities in any circumstance; all data sharing of this kind by Illinois law enforcement is completely voluntary.

II. Executive Order 13768 of January 25, 2017

Executive Order 13768 (“the Order”) addresses those jurisdictions that have limited the ability of local law enforcement to share information about the citizenship and immigration status of individuals with federal immigration authorities.¹⁹ Specifically, the Order authorizes the Attorney General of the United States and the Secretary of the Department of Homeland Security to “ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes.”²⁰ Under the Order, the Secretary has the authority and discretion to designate a jurisdiction as a “sanctuary jurisdiction.” The Order does not define “sanctuary jurisdictions,” although a memo issued by U.S. Attorney General Jeff Sessions stated that “the term ‘sanctuary jurisdiction’ will refer only to jurisdictions that willfully refuse to comply with 8 U.S.C. 1373” by prohibiting law enforcement or other government employees from sharing information about individuals’ immigration status with federal authorities.²¹ The memo further clarified that the Order is only intended to affect grants from the Department of Justice and Department of Homeland Security that explicitly reference compliance with 8 U.S.C. § 1373 as a condition of the grant. However, on April 25, 2017, a federal court entered a preliminary injunction that applies nationally to the provision of the Executive Order that disqualifies “sanctuary jurisdictions” from receiving federal grants.²² Therefore, the federal government currently may not enforce this particular provision against any jurisdiction.²³

The Order also revokes the Obama Administration’s priorities for enforcement, known as the Priority Enforcement Program (PEP), and revives an earlier program called Secure Communities. Under PEP, U.S. Immigration and Customs Enforcement (ICE) agents were directed to seek a transfer of an undocumented immigrant in the custody of state or local law enforcement only if the alien posed a demonstrable risk to national security or was convicted of specific criminal offenses.²⁴ Under the Secure Communities program reinstated by the Order, the Secretary of Homeland Security will prioritize removal of individuals who: have been convicted

¹⁹ Executive Order 13768 of January 25, 2017, 82 Fed. Reg. 8799 (Jan. 30, 2017).

²⁰ *Id.* at 8801 (Sec. 9(a)).

²¹ Memorandum from The Attorney General, “Implementation of Executive Order 13768 ‘Enhancing Public Safety in the Interior of the United States,’” May 22, 2017, *available at* <https://www.justice.gov/opa/press-release/file/968146/download>.

²² *Cty. of Santa Clara v. Trump*, No. 17–cv–574, 2017 WL 1459081 (N.D. Cal. Apr. 25, 2017) (an order denying the federal government’s motion to reconsider the preliminary injunction and to dismiss plaintiffs’ claims was entered on July 20, 2017).

²³ *Id.*

²⁴ Memorandum from Jeh Johnson, Secretary of the U.S. Department of Homeland Security, “Secure Communities,” Nov. 20, 2014, *available at* <http://bit.ly/29oZZk5> (hereinafter “Memo from Jeh Johnson”).

of any criminal offense; have been charged with any criminal offense; have committed acts which constitute a chargeable criminal offense; have engaged in fraud in connection with any matter before a governmental agency; have abused any program for the receipt of public benefits; are subject to a final order of removal; or pose a risk to public safety or national security.²⁵

Illinois law enforcement should anticipate increased enforcement efforts by federal authorities under these broader priorities. This may include an increase in the number of ICE detainer requests issued to Illinois law enforcement following National Crime Information Center (NCIC) background checks for individuals in the custody of Illinois law enforcement. **However, these federal priorities do not create or expand any authority for Illinois law enforcement to enforce federal immigration law.**

III. The Illinois Trust Act, Effective August 28, 2017

The Illinois Trust Act expressly states that Illinois law “does not currently grant State or local law enforcement the authority to enforce federal civil immigration laws.”²⁶ Specifically, the Trust Act prohibits Illinois law enforcement from (1) detaining or continuing to detain any individual *solely* on the basis of an immigration detainer or non-judicial immigration warrant, or (2) otherwise complying with an immigration detainer or non-judicial immigration warrant.²⁷ This means that an Illinois law enforcement agency cannot keep a person in its custody only because it received an immigration detainer or non-judicial immigration warrant. If the Illinois law enforcement agency does not have probable cause or a judicial warrant to continue to hold the person, it must release the person. Probable cause is *not* created by any request from federal immigration authorities. Consequently, Illinois law enforcement must deny any requests from federal immigration authorities – such as ICE or U.S. Customs and Border Protection (CBP) – for assistance to detain an individual solely on the basis of an immigration detainer or non-judicial immigration warrant.

Additionally, pursuant to the Trust Act, an Illinois law enforcement officer shall not stop, arrest, search, detain, or continue to detain a person *solely* based on his or her citizenship or immigration status.²⁸ Therefore, an officer who searches or arrests a person merely because the person is undocumented is committing an unlawful search or arrest.

The Trust Act makes clear that the above prohibitions do not apply if the Illinois law enforcement officer is presented with a valid, enforceable judicial warrant. An officer who releases

²⁵ 82 Fed. Reg. 8799, 8800 (Jan. 30, 2017); *see also* Memorandum from John Kelly, Secretary of the U.S. Department of Homeland Security, “Enforcement of the Immigration Laws to Serve the National Interest,” Feb. 20, 2017, *available at* <http://bit.ly/2miirQd> (hereinafter “Memo from John Kelly”).

²⁶ Ill. Public Act 100-0463, § 5 (2017).

²⁷ *Id.* § 15(a).

²⁸ *Id.* § 15(b).

a person in accordance with the Trust Act is immune from any civil or criminal liability that could result from any acts committed by the person who was released, as long as the officer acted in good faith and did not commit willful or wanton misconduct.²⁹

IV. **Limited Authority of Illinois Law Enforcement to Enforce Federal Civil Immigration Law**

Even if not explicitly prohibited by the Trust Act, local law enforcement's role in the enforcement of immigration law in Illinois is limited. Specifically, local law enforcement is not required to engage in immigration enforcement; has no authority to detain an individual pursuant to a federal administrative warrant; has no authority to detain an individual pursuant to an ICE detainer request; and is under no affirmative legal obligation to share any information about individuals in its custody with federal immigration authorities. **Importantly, local law enforcement officers cannot arrest an individual for a violation of a federal law without a warrant unless state law has granted them authority to do so.**³⁰ **Illinois law does not authorize Illinois law enforcement officers to arrest an individual for violating federal immigration law. Further, Illinois law now *prohibits* Illinois law enforcement from arresting a person solely based on his or her immigration status.**³¹

a. Federal law does not require Illinois law enforcement agencies to participate in enforcement of federal civil immigration law.

The federal government cannot require Illinois law enforcement to enforce federal law.³² Any requests by the federal government to participate in immigration enforcement activities must be viewed as requests for voluntary cooperation. As a result, Illinois law enforcement agencies bear the responsibility for the consequences of their decision to comply with such a request.³³ Further, any authorization from the federal government for Illinois law enforcement to enforce federal law is only effective if it is accompanied by authority under state law or is not prohibited

²⁹ *Id.* § 15(d).

³⁰ *Arizona v. United States*, 132 S. Ct. 2492, 2509-10 (2012) (“Authority of state officers to make arrests for federal crimes is, absent federal statutory instruction, a matter of state law”) (citing *United States v. Di Re*, 332 U.S. 581, 589 (1948)). See also *Lunn v. Commonwealth*, 78 N.E.3d 1143 (Mass. 2017) (finding no authority in Massachusetts common or statutory law that authorizes arrests for federal civil immigration violations and holding that court officers do not have the authority to detain an individual solely on the basis of a civil immigration detainer); Immigration and Naturalization Act, 8 U.S.C. § 1252c (authorizing State and local law enforcement officials to arrest and detain an alien who is illegally present and has been previously convicted of a felony “to the extent permitted by relevant State and local law”).

³¹ 725 ILCS 5/107-2 (describing the circumstances for arrest by law enforcement).

³² *Printz v. United States*, 521 U.S. 898, 923-24 (1997) (finding that the 10th Amendment prohibits the federal government from compelling the States to enact or administer a federal regulatory program).

³³ See *Villars v. Kubiowski*, 45 F. Supp. 3d 791, 801-803 (N.D. Ill. 2014) (denying motion to dismiss claims against village police department for detaining individual post-bond); *Galarza v. Szalczyk*, 745 F.3d 634, 645 (3d Cir. 2014) (finding that county was liable for unlawful detention pursuant to ICE detainer).

by the Trust Act or other state law.³⁴ Accordingly, any requests from federal immigration authorities for access to individuals held by Illinois authorities should be viewed as requests, rather than obligations.³⁵

As discussed above, federal law permits – but does not require – only two circumstances where Illinois law enforcement may enforce federal immigration law: (1) pursuant to a 287(g) agreement;³⁶ or (2) when an individual has returned to the United States after being convicted of a felony and deported.³⁷ **Jurisdictions should understand that Illinois law has not authorized Illinois law enforcement to engage in enforcement of federal civil immigration law and that they may face civil liability for doing so.**

b. Illinois law enforcement has no authority to arrest an individual solely based on information that the individual is undocumented.

Generally, law enforcement officers cannot arrest an individual for violation of a state or federal law without a warrant unless state law has granted them authority to do so.³⁸ Illinois law permits arrest by Illinois law enforcement only if the officer has an arrest warrant, has reasonable grounds to believe a warrant has been issued or has reasonable grounds to believe that the individual is committing or has committed a criminal offense.³⁹

Being unlawfully present in the United States is not a criminal offense, and thus unlawful presence alone does not establish probable cause to find that an individual has committed an offense under Illinois law.⁴⁰ The fact that a person may be subject to deportation is not a lawful reason for arrest or detention without a court order, even if the person is subject to a deportation order based on the commission of a criminal offense.⁴¹ Further, as discussed above, Illinois law now prohibits the arrest of a person solely based on the person’s citizenship or immigration status.

³⁴ *Arizona*, 132 S. Ct. at 2509-10.

³⁵ *Moreno v. Napolitano*, 2016 WL 5720465 (N.D. Ill. Sept. 30, 2016); *Galarza v. Szalczyk*, 745 F.3d 634, 645 (3d Cir. 2014); *Ortega v. U.S. Immigration & Customs Enforcement*, 737 F.3d 435, 438 (6th Cir. 2013); *Liranzo v. United States*, 690 F.3d 78, 82 (2d Cir. 2012); *United States v. Uribe-Rios*, 558 F.3d 347, 350 n. 1 (4th Cir. 2009); *United States v. Female Juvenile, A.F.S.*, 377 F.3d 27, 35 (1st Cir. 2004); *Giddings v. Chandler*, 979 F.2d 1104, 1105 n.3 (5th Cir. 1992).

³⁶ 8 U.S.C. § 1357(g) (Section 287(g) of the Immigration and Nationality Act).

³⁷ 8 U.S.C. § 1252c.

³⁸ *Miller v. United States*, 357 U.S. 301, 305 (1958) (noting that the lawfulness of a warrantless arrest for violation of federal law by state peace officers is “to be determined by reference to state law”).

³⁹ 725 ILCS 5/107-2.

⁴⁰ *Arizona v. United States*, 132 S. Ct. 2492, 2505 (2012) (“If the police stop someone based on nothing more than possible removability, the usual predicate for an arrest is absent.”).

⁴¹ *Id.*; see also *Galarza v. Szalczyk*, 745 F.3d 634, 641 (3d Cir. 2014) (“The [INA] does not authorize federal officials to command state or local officials to detain suspected aliens subject to removal.”); *Morales v. Chadbourne*, 793 F.3d 208, 217-18 (1st Cir. 2015) (new seizures as a result of an ICE detainer must be supported by probable cause).

Thus, without an arrest warrant issued by a judge, Illinois law bars Illinois law enforcement from arresting an individual on the sole basis that the person is unlawfully present in the United States.⁴² This is true even if an officer is aware that ICE has issued an administrative warrant for an individual. **Therefore, Illinois officers do not have legal authority to arrest or detain an individual based solely on the individual's immigration status and are in violation of Illinois law if they do so.**

c. Illinois law enforcement shall not arrest an individual solely based on an ICE administrative warrant.

Federal law does not authorize Illinois law enforcement officers to arrest an individual pursuant to an ICE administrative warrant and Illinois law now prohibits arrest by an Illinois law enforcement officer solely based on an ICE administrative warrant.⁴³ ICE administrative warrants are prepared by ICE employees, but are not approved or reviewed by a judge.⁴⁴ By themselves, ICE administrative warrants do not suggest that an individual has committed a criminal offense, nor do they constitute probable cause that a criminal offense has been committed.⁴⁵ Furthermore, administrative warrants issued by ICE authorize only U.S. Department of Homeland Security (DHS) or ICE agents to arrest the individual, not Illinois law enforcement. **Thus, any arrest by Illinois law enforcement solely based on an administrative warrant issued by ICE is not an arrest pursuant to a criminal warrant or a finding of probable cause and violates Illinois law.**⁴⁶

d. Illinois law enforcement shall not detain an individual pursuant only to a federal immigration detainer request.

Federal courts have concluded that ICE detainers are requests, and state and local law enforcement are not required to honor the requests. In fact, law enforcement agencies may be open to liability if they comply with such requests because ICE detainers do not establish individualized probable cause that would be sufficient justification for local law enforcement to detain an individual.⁴⁷ Furthermore, any detention of an individual after his or her normal release date is

⁴² *Arizona*, 132 S. Ct. at 2505.

⁴³ See *United States v. Toledo*, 615 F. Supp. 2d 453, 459 (S.D. W. Va. 2009) (discussing the sheriff's lack of authority to enforce an ICE administrative warrant).

⁴⁴ 8 U.S.C. § 1357; see also *U.S. v. Abdi*, 463 F.3d 547, 551 (6th Cir. 2006) (describing the process to obtain an ICE administrative warrant).

⁴⁵ *El Badrawi v. Dept. of Homeland Security*, 579 F. Supp. 2d 249, 276 (D. Conn. 2008); *United States v. Toledo*, 615 F. Supp. 2d 453, 459 (S.D. W. Va. 2009).

⁴⁶ Illinois law authorizes peace officers to arrest an individual only when a warrant has been issued for a criminal offense – not a civil offense. 725 ILCS 5/107-2.

⁴⁷ *Galarza v. Szalczyk*, 745 F.3d 634, 645 (3d. Cir. 2014); *Moreno v. Napolitano*, 2016 WL 5720465 (N.D. Ill. September 30, 2016) (holding that ICE's practice of issuing detainers without individualized determination of probable cause was unlawful).

considered a new arrest and must be based on probable cause that a crime has been committed.⁴⁸ As discussed above, unlawful presence in the United States alone does not constitute probable cause and is not a criminal offense.⁴⁹

An Illinois law enforcement agency is in violation of the Trust Act if it detains an individual beyond his or her normal release date based only on an ICE detainer request.⁵⁰ Further, an Illinois law enforcement agency must take actions to ensure it does not violate the Illinois and federal constitutional protections against unreasonable searches and seizures.⁵¹ **Any detention of an individual without a judicial warrant – including prolonging an initial detention – must be supported by probable cause that an individual committed a criminal offense, which is not satisfied by the existence of an ICE administrative warrant.**⁵²

e. Illinois law enforcement is permitted, but not required, to share information with federal immigration authorities.

Federal officials may request information from Illinois law enforcement agencies about individuals in their custody in order to enforce federal civil immigration laws.⁵³ This information may include names of individuals in custody, normal release dates, court dates, home address or other identifying information. Illinois law enforcement is not required to respond to these information requests.⁵⁴ Similarly, Illinois law enforcement agencies are not required to inquire about an individual's citizenship or immigration status or to collect this information.⁵⁵

While Illinois law enforcement and other government agencies are not prohibited from sharing or receiving citizenship information,⁵⁶ they are not required to do so.⁵⁷ Moreover, law enforcement policies and practices to share information about individuals in their custody may deter individuals from reporting information about a crime or appearing as a witness

⁴⁸ Ill. Const. 1970, art. I, § 6; U.S. Const., amend. IV.

⁴⁹ *Arizona v. United States*, 132 S. Ct. 2492, 2505 (2012).

⁵⁰ *Santos v. Frederick Cnty. Bd. Of Comm'rs*, 725 F.3d 451, 464-65 (4th Cir. 2013); *see also Villars v. Kubiowski*, 45 F. Supp. 3d 791, 801-803 (N.D. Ill. 2014) (denying motion to dismiss claims against village police department for detaining individual post-bond); *Galarza v. Szalczyk*, 745 F.3d 634, 645 (3d Cir. 2014) (finding that county was liable for unlawful detention pursuant to ICE detainer).

⁵¹ *Morales v. Chadbourne*, 793 F.3d 208, 217 (1st Cir. 2015); *Moreno v. Napolitano*, 2016 WL 5720465 (N.D. Ill. Sept. 30, 2016).

⁵² *Santos*, 725 F.3d at 464-65; *see also Villars*, 45 F.Supp.3d at 801-03; *Galarza*, 745 F.3d at 645; *see also People v. Hyland*, 2012 IL App (1st) 110966 (finding that investigative alert was not sufficient to support probable cause for arrest).

⁵³ 8 U.S.C. § 1373.

⁵⁴ *Id.*; *see also Arizona v. United States*, 132 S. Ct. 2492, 2508 (2012) (noting that Congress has “encouraged the sharing of information about possible immigration violations”).

⁵⁵ Law enforcement should be aware that all fingerprint information submitted to the FBI for criminal background checks will be provided to ICE for comparison to its records.

⁵⁶ *See* Ill. Public Act 100-0463, § 15(c) (2017).

⁵⁷ *See Printz v. United States*, 521 U.S. 898, 935 (1997) (holding that 10th Amendment prohibits the federal government from commandeering state employees to administer federal scheme).

if these individuals are concerned that their information will be shared with ICE or other federal authorities.⁵⁸ Accordingly, such policies and practices may diminish the relationship between Illinois law enforcement and immigrant communities. Therefore, agencies should carefully consider the impact of sharing information with federal authorities on the community's perceptions of trust and confidentiality.

⁵⁸ See *City of New York v. United States*, 179 F.3d 29, 34 (2d Cir. 1999) (discussing police department interests in confidentiality of information).

U Visa Law Enforcement Certification Resource Guide

for Federal, State, Local, Tribal and Territorial
Law Enforcement



U Visa Resource Guide

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Introduction

The Department of Homeland Security (DHS) provides this guidance to federal, state, local, tribal and territorial law enforcement officers. This public guidance primarily concerns law enforcement certifications for U nonimmigrant status, also known as U visas. The U visa is an immigration benefit that can be sought by victims of certain crimes who are currently assisting or have previously assisted law enforcement in the investigation or prosecution of a crime, or who are likely to be helpful in the investigation or prosecution of criminal activity. The law enforcement certification [USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification \(Form I-918B\)](#) is a required element for U visa eligibility. Included in this resource is information about U visa requirements, the certification process, best practices, frequently asked questions from law enforcement agencies, and contact information for DHS personnel on U visa issues.

U Visa Basics

The Victims of Trafficking and Violence Prevention Act (VTVPA) of 2000¹, passed with bipartisan support in Congress, encourages victims to report crimes and contribute to investigations and prosecutions regardless of immigration status, and supports law enforcement efforts to investigate and prosecute crimes committed against immigrant victims.

The U visa is an immigration benefit that can be sought by victims of certain crimes who are currently assisting or have previously assisted law enforcement in the investigation or prosecution of a crime, or

¹ (VTVPA), Pub. L. No. 106-386, 114 Stat. 1464-1548 (2000).

who are likely to be helpful in the investigation or prosecution of criminal activity. The U visa provides eligible victims with nonimmigrant status in order to temporarily remain in the United States (U.S.) while assisting law enforcement. If certain conditions are met, an individual with U nonimmigrant status may adjust to lawful permanent resident status. Congress capped the number of available U visas to 10,000 per fiscal year.

Immigrants, especially women and children, can be particularly vulnerable to crimes like human trafficking, domestic violence, sexual assault, and other abuse due to a variety of factors. These include, but are not limited to, language barriers, separation from family and friends, lack of understanding of U.S. laws, fear of deportation, and cultural differences. Congress recognized that victims who do not have legal status may be reluctant to help in the investigation or prosecution of criminal activity for fear of removal from the United States. The VTVPA was enacted to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of persons and other crimes while offering protection to victims of such crimes without the immediate risk of being removed from the country. Congress also sought to encourage law enforcement officials to serve immigrant crime victims.²

If an individual believes he or she may qualify for a U visa, then that individual or his or her representative will complete the USCIS Form I-918, Petition for U Nonimmigrant Status (Form I-918), and submit it to U.S. Citizenship and Immigration Services (USCIS) with all relevant documentation, including Form I-918B, the U visa law enforcement certification. Given the complexity of U visa petitions, petitioners often work with a legal representative or victim advocate.

What Is a U Visa Certification and Which Agencies Can Certify?

USCIS Form I-918, Supplement B is the U visa certification document that a law enforcement agency can complete for a victim who is petitioning USCIS for a U visa. USCIS is the federal component of DHS with the responsibility to determine whether immigration benefits and immigration status should be granted or denied. Form I-918B is a required piece of evidence to confirm to USCIS that a qualifying crime has occurred and that the victim was helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of criminal activity.

Form I-918B and its instructions are available on the USCIS website at www.uscis.gov with the Form I-918 for the U visa. In order to be eligible for a U visa, the victim must submit a law enforcement certification completed by a certifying agency. Certifying agencies include all authorities responsible for the investigation, prosecution, conviction or sentencing of the qualifying criminal activity, including but not limited to:

- Federal, State and Local law enforcement agencies;
- Federal, State and Local prosecutors' offices;

² VTVPA, Pub.L. No. 106-386, § 1513(a)(2)(A), 114 Stat. 1464, 1533-34 (2000). *See also* New Classification for Victims of Criminal Activity; Eligibility for "U" Nonimmigrant Status, 72 Fed. Reg. 53014 (Sept. 17, 2007) (amending 8 C.F.R. §§ 103, 212, 214, 248, 274a and 299).

- Federal, State and Local Judges;
- Federal, State, and Local Family Protective Services;
- Equal Employment Opportunity Commission;
- Federal and State Departments of Labor; and
- Other investigative agencies.

The law enforcement certification, Form-918B, is a required piece of evidence to confirm that a qualifying crime has occurred and that the victim was helpful, is being helpful, or is likely to be helpful in the detection, investigation or prosecution of criminal activity. Although a law enforcement certification is a required part of a victim’s petition for a U visa, law enforcement officers cannot be compelled to complete a certification. Whether a certifying law enforcement agency signs a certification is at the discretion of that law enforcement agency and the policies and procedures it has established regarding U visa certifications. The law enforcement certification validates the role the victim had, has, or will have in being helpful to the investigation or prosecution of the case; therefore, it is important that the law enforcement agency complete certifications on a case-by-case basis. Without a completed U visa certification, the victim will not be eligible for a U visa.

What Constitutes a Qualifying Crime?

<ul style="list-style-type: none"> • Abduction • Abusive Sexual Contact • Blackmail • Domestic Violence • Extortion • False Imprisonment • Felonious Assault • Female Genital Mutilation • Felonious Assault • Being Held Hostage 	<ul style="list-style-type: none"> • Incest • Involuntary Servitude • Kidnapping • Manslaughter • Murder • Obstruction of Justice • Peonage • Perjury • Prostitution • Rape 	<ul style="list-style-type: none"> • Sexual Assault • Sexual Exploitation • Slave Trade • Torture • Trafficking • Witness Tampering • Unlawful Criminal Restraint • Other Related Crimes*† <p>*Includes any similar activity where the elements of the crime are substantially similar.</p> <p>†Also includes attempt, conspiracy, or solicitation to commit any of the above, and other related, crimes.</p>
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What Does “Helpful” In the Investigation or Prosecution Mean?

Helpfulness means the victim was, is, or is likely to be assisting law enforcement in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim. This includes being helpful and providing assistance when reasonably requested. This also includes an ongoing responsibility on the part of the victim to be helpful. Those who unreasonably refuse to assist after

reporting a crime will not be eligible for a U visa. The duty to remain helpful to law enforcement remains even after a U visa is granted, and those victims who unreasonably refuse to provide assistance after the U visa has been granted may have the visa revoked by USCIS. Law enforcement agencies should contact and inform USCIS of the victim's unreasonable refusal to provide assistance in the investigation or prosecution should this occur.

A current investigation, the filing of charges, a prosecution or conviction are not required to sign the law enforcement certification. Many instances may occur where the victim has reported a crime, but an arrest or prosecution cannot take place due to evidentiary or other circumstances. Examples of this include, but are not limited to, when the perpetrator has fled or is otherwise no longer in the jurisdiction, the perpetrator cannot be identified, or the perpetrator has been deported by federal law enforcement officials. There is no statute of limitations on signing the law enforcement certification. A law enforcement certification can even be submitted for a victim in a closed case.

USCIS Review of U Visa Law Enforcement Certifications

USCIS is the federal component of DHS responsible for approving and denying immigration benefits and status, including the U visa. Federal, State and local law enforcement agencies **do not** grant or guarantee a U visa or any other immigration status by signing a U visa certification (Form I-918B). Only USCIS may grant or deny a U visa after a full review of the petition to determine whether all the eligibility requirements have been met and a thorough background investigation. An individual may be eligible for a U visa if:

- He/she is the victim of qualifying criminal activity.
- He/she has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity.
- He/she has information about the criminal activity. If under the age of 16 or unable to provide information due to a disability, a parent, guardian, or next friend may possess the information about the crime on the individual's behalf.
- He/she was helpful, is being helpful, or is likely to be helpful to law enforcement in the investigation or prosecution of the crime. If under the age of 16 or unable to provide information due to a disability, a parent, guardian, or next friend may assist law enforcement on behalf of the individual.
- The crime occurred in the United States or violated U.S. laws
- He/she is admissible to the United States. If not admissible, an individual may apply for a waiver on a Form I-192, Application for Advance Permission to Enter as a Non-Immigrant.

By signing a law enforcement certification, the law enforcement agency is stating that a qualifying criminal activity occurred, that the victim had information concerning the criminal activity, and that the victim was helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the qualifying crime. In addition, law enforcement may report information about any harm sustained by the victim that law enforcement has knowledge of or observed.

While a U visa petition will not be granted without the required law enforcement certification, the fact that a certification has been signed does not automatically grant the victim a U visa. The certification is only one of the required pieces of evidence needed to be eligible for a U visa.

For all U visa petitioners, USCIS conducts a thorough background investigation which includes a Federal Bureau of Investigation (FBI) fingerprint check and name check. USCIS will also review the petitioners' immigration records to assess whether any inadmissibility issues exist, such as the petitioner's criminal history, immigration violations, or security concerns. Any evidence that law enforcement and immigration authorities possess may be used when determining eligibility for a U visa. This evidence includes, but is not limited to, the person's criminal history, immigration records, and other background information. USCIS may contact the certifying law enforcement agency if there are any issues or questions arise during the adjudication based on information provided in the law enforcement certification.

Benefits of the U Visa to the Recipient

If found eligible and a petition is approved, a U visa recipient receives nonimmigrant status to live and work in the United States for no longer than 4 years. Qualified recipients may apply to adjust status to become a lawful permanent resident (green card) after three years of continuous presence in the U.S. while having a U visa. The petitioner will have to meet other eligibility requirements for a green card as well, including the ongoing duty to cooperate with law enforcement and not unreasonably refuse to assist with the investigation or prosecution of the qualifying crime. Additionally, certain immediate family members of U visa recipients may also be eligible to live and work in the United States as derivative U visa recipients based on their relationship with the principal recipient. These family members include:

- Unmarried children under the age of 21 of principal U visa recipients;
- Spouses of principal U visa recipients;
- Parents of principal U visa recipients under age 21; and
- Unmarried siblings under 18 years old of principal U visa recipients under age 21.

U Visa Certification Form (Form I-918B)

Tips for Filling Out the Form I-918B

The U visa certification can be initiated by the law enforcement agency itself or by the crime victim. If initiated by the crime victim, this is usually done with the assistance of an advocate or an attorney. By signing a certification, the law enforcement agency attests that the information is true and correct to the best of the certifying official's knowledge. The head of the agency has the authority to sign certifications or to delegate authority to other agency officials in a supervisory role to sign certifications. An agency's decision to sign a certification is completely discretionary and under the authority of that agency. Neither DHS nor any other federal agency have the authority to request or demand that any law enforcement agency sign the certification. There is also no legal obligation to

complete and sign Form I-918B. However, without a certification signed by law enforcement, the individual will not be eligible to be granted a U visa.

By signing a certification, the law enforcement agency attests that the information is true and correct to the best of the certifying official’s knowledge. The law enforcement certification essentially states to USCIS that:

- The petitioner was a victim of a qualifying crime;
- The petitioner has specific knowledge and details of crime; and
- The petitioner has been, is being, or is likely to be helpful to law enforcement in the detection, investigation, or prosecution of the qualifying crime.

If a law enforcement agency signs a Form I-918B, the certification must be returned to the victim (or the victim’s attorney, representative, etc.). The law enforcement agency does not need to send the signed certification separately to USCIS. The victim is required to send the original signed certification form along with his or her complete U visa petition to USCIS. If the law enforcement official is providing additional documents (e.g., a copy of the police report, additional statements, photos, etc.) along with the certification, law enforcement should indicate on Form I-918B a note of “see attachment” or “see addendum”. Question 5 of Part 4 on Form I-918B, the certifying official may document the helpfulness of the victim and if that victim refused to be helpful at any time throughout the investigation/prosecution at the point. The certification form must contain an original signature and should be signed in a color of ink other than black for verification purposes. Photocopies, faxes, or scans of the certification form cannot be accepted by USCIS as an official certification.

Victim info.

Agency Info.

Crime info.

Department of Homeland Security
U.S. Citizenship and Immigration Services

U Nonimmigrant Status Certification

Part 1. Victim information.

Family Name: _____ Given Name: _____ Middle Name: _____
 Other Names Used (include nicknames/aliases): _____
 Date of Birth (mm/dd/yyyy): _____ Gender: Male Female
 Date: _____
 Date: _____
 Date: _____

Part 2. Agency information.

Name of Certifying Agency: _____
 Name of Certifying Official: _____ Title and Division/Office of Certifying Official: _____
 Name of Head of Certifying Agency: _____
 Agency Address - Street Number and Name: _____ Suite #: _____
 City: _____ State/Territory: _____ Zip/Postal Code: _____
 Daytime Phone #: (with area code and/or extension) _____ Fax #: (with area code) _____
 Agency Type: Federal State Local
 Case Status: Ongoing Completed Other: _____
 Certifying Agency Category: Judge Law Enforcement Prosecutor Other: _____
 Case Number: _____ FBI # or IED # (if applicable): _____

Part 3. Criminal acts.

1. The applicant is a victim of criminal activity involving or similar to violation of one of the following Federal, State or local criminal offenses. (Check all that apply.)

<input type="checkbox"/> Abduction	<input type="checkbox"/> Female Sexual Molestation	<input type="checkbox"/> Obstruction of Justice	<input type="checkbox"/> Slave Trade
<input type="checkbox"/> Abusive Sexual Contact	<input type="checkbox"/> Stalking	<input type="checkbox"/> Perjury	<input type="checkbox"/> Torture
<input type="checkbox"/> Blackmail	<input type="checkbox"/> Sworn	<input type="checkbox"/> Perjury	<input type="checkbox"/> Trafficking
<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Inventory Seizure	<input type="checkbox"/> Prostitution	<input type="checkbox"/> Unlawful Criminal Extortion
<input type="checkbox"/> Extortion	<input type="checkbox"/> Kidnapping	<input type="checkbox"/> Rape	<input type="checkbox"/> Witness Tampering
<input type="checkbox"/> False Imprisonment	<input type="checkbox"/> Molestation	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> Witness Tampering
<input type="checkbox"/> False Personation	<input type="checkbox"/> Murder	<input type="checkbox"/> Sexual Exploitation	<input type="checkbox"/> Witness Tampering
<input type="checkbox"/> False Personation	<input type="checkbox"/> Conspiracy to commit any of the named crimes	<input type="checkbox"/> Solicitation to commit any of the named crimes	<input type="checkbox"/> Other: (If more space needed, attach separate sheet of paper.)

Form I-918 Supplement B (Rev. 11/2016)

Date, location and other crime info.

Part 3. Criminal acts. (Continued)

2. Provide the date(s) on which the criminal activity occurred.

Date (mm/dd/yyyy) Date (mm/dd/yyyy) Date (mm/dd/yyyy) Date (mm/dd/yyyy)

3. List the statutory citation(s) for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

4. Did the criminal activity occur in the United States, including Indian country and military installations, or the territories or possessions of the United States? Yes No

a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute? Yes No

b. If "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.

c. Where did the criminal activity occur?

5. Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the individual named in Part 1. Attach copies of all relevant reports and findings.

6. Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.

Helpfulness statement

Part 4. Helpfulness of the victim. (Continued)

The victim (or parent, guardian or next friend, if the victim is under the age of 18, incompetent or incapacitated):

1. Possess information concerning the criminal activity listed in Part 3. Yes No

2. Has been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity detailed above. (Attach an explanation briefly detailing the assistance the victim has provided.) Yes No

3. Has not been requested to provide further assistance in the investigation and/or prosecution. (Example: prosecution is barred by the statute of limitations.) (Attach an explanation.) Yes No

4. Has unreasonably refused to provide assistance in a criminal investigation and/or prosecution of the crime detailed above. (Attach an explanation.) Yes No

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Additional helpfulness info.

Part 4. Helpfulness of the victim. (Continued)

5. Other, please specify:

Culpable family members

Part 5. Family members implicated in criminal activity.

1. Are any of the victim's family members believed to have been involved in the criminal activity of which he or she is a victim? Yes No

2. If "Yes," list relative(s) and criminal involvement. (Attach extra reports or extra sheets of paper if necessary)

Full Name	Relationship	Involvement

Certification

Part 6. Certification.

I am the head of the agency listed in Part 2 or I am the person in the agency who has been specifically designated by the head of the agency to issue U.S. nonprosecution or nonpunishment certificates on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual named in Part 1 is or has been a victim of one or more of the crimes listed in Part 3. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make no promise regarding the above victim's ability to obtain a visa from the U.S. Citizenship and Immigration Service, based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he/she is a victim, I will notify USCIS.

Signature of Certifying Official Identified in Part 2. Date (mm/dd/yyyy)

Form I-918 Supplement B (Rev. 10/20/00) Page 3

Best Practices in U Visa Certifications (Form I-918B)

Across the United States, law enforcement agencies have taken different procedural approaches to U visa certifications. DHS does not endorse or recommend any particular practice, as the certifying agency has the sole authority on the policies and procedures it will use in signing law enforcement certifications. Some examples of how various law enforcement agencies educate their officers about U visa certifications and how they designate a certifier or certifiers in their agencies include:

- Department policy or general order on the process and use of the U visa certification written and distributed;
- A Letter or Memorandum designating a process and authority to certify has been sent from the Chief to the Lieutenant(s) or supervisor(s) in charge of certifying U visas;
- Chief designates the head of the Victim-Witness Assistance Program as the certifier;
- Teletype message or similar written notification sent out from the Chief to the entire department explaining the purpose of the U visa, the certification process, and who is/are designated as the certifier(s); and
- The Investigations Bureau Chief, assigned as certifier, delegates an officer or supervisor to review requests made by both law enforcement officers and the community and makes a recommendation on the certification to the Bureau Chief.

Frequently Asked Questions

What do I do with a completed certification?

Once the law enforcement official completes and signs Form I-918B, the original should be given to the victim or the victim's legal representative or victim advocate, so that he or she can add the certification to the original U visa petition packet before submission to USCIS.

Please also note that only a law enforcement official may complete and sign the Form I-918B. The victim, victim's attorney, or advocate may not sign the Form I-918B.

If I certify a petition, does the victim automatically get a U visa or lawful immigration status?

No. There are many additional eligibility requirements that USCIS evaluates based on a victim's U visa petition, including whether the victim suffered "substantial physical or mental abuse." Moreover, upon receiving a U visa petition, including Form I-918B, USCIS will conduct a full review of the petition and a thorough background check of the petitioner before approving or denying the petition. The background check will include an FBI fingerprint check, name and date of birth (DOB) check, and a review of immigration inadmissibility issues, including security-based and criminal inadmissibility grounds. A victim may be found inadmissible if they do not meet required criteria in the Immigration and Nationality Act to gain admission or legal status in the U.S. Generally, USCIS does not initiate removal proceedings. However, if there are serious inadmissibility issues, such as security related concerns, multiple or violent criminal arrests, or multiple immigration violations, USCIS may find the victim to be inadmissible and may also initiate removal proceedings. If USCIS finds the victim

to be inadmissible after a removal proceeding was stayed or terminated to pursue the U visa application, the proceedings may be reinitiated or DHS may file a new Notice to Appear (NTA) for that individual.

If USCIS needs further information, evidence, or clarification of an issue, USCIS officers may request additional evidence from the petitioner. USCIS may also contact the certifying law enforcement agency for further information if necessary.

Which law enforcement agencies are eligible to make certifications?

A federal, state, local law enforcement agency, prosecutor, judge, or other authority that has the responsibility for the investigation or prosecution of a qualifying crime or criminal activity is eligible to sign Form I-918B. This includes agencies with criminal investigative jurisdiction in their respective areas of expertise, including but not limited to child and adult protective services, the Equal Employment Opportunity Commission, and Federal and State Departments of Labor.

Who in the law enforcement agency can sign Form I-918B?

A certifying official(s) can sign Form I-918B. The U visa regulation defines a certifying official as: “[t]he head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency.” 8 C.F.R. § 214.14(a)(3).

Although not required with each certification, it is helpful to include a letter showing the designation of the signing official(s). The letter would be signed by the agency head and would reflect that person with a particular rank or title within the agency is to be the signing official(s).

If my law enforcement agency has a Memorandum of Understanding (MOU) with DHS under the 287(g) program, are we still able to sign U visa certifications?

Yes, Form I-918B can be signed regardless of such an MOU with DHS. DHS encourages all jurisdictions to implement U visa certification practices and policies.

What if the victim or witness in my case has been detained or ordered removed for an immigration violation?

Individuals currently in removal proceedings or with final orders of removal may still apply for a U visa. Absent special circumstances or aggravating factors, it is against U.S. Immigration and Customs Enforcement (ICE) policy to initiate removal proceedings against an individual known to be the immediate victim or witness to a crime. To avoid deterring individuals from reporting crimes, ICE has issued guidance to remind ICE officers, special agents, and attorneys to exercise all appropriate discretion on a case-by-case basis when making detention and enforcement decisions in the cases of victims of crime, witnesses to crime, and individuals pursuing legitimate civil rights complaints. Particular attention should be paid to victims of domestic violence, human trafficking, or other serious crimes, and witnesses involved in pending criminal investigations or prosecutions.

If a law enforcement official is aware of a victim or witness against whom a detainer has been lodged, who has been detained, who has been placed in removal proceedings for an immigration violation, or who has been ordered removed, the official should promptly contact their local ICE Enforcement and Removal Operations (ERO) contact or the local Office of the Chief Counsel to make ICE aware of the situation. Specifically with regard to a lodged detainer, the law enforcement official may notify the ICE Law Enforcement Support Center at (802) 872-6020, if the individual may be the victim of a crime, or if the officials want this individual to remain in the United States for prosecution or other law enforcement purposes, including acting as a witness.

Will a certifying law enforcement agency be liable for any future conduct of someone who is granted a U visa? What if I signed a certification for someone who later commits a crime?

A certifying law enforcement agency/official cannot be held liable for the future actions of a victim for whom the agency signed a certification or to whom DHS granted a U visa. The U visa certification simply states that the person was a victim of a qualifying crime, possessed information relating to the crime, and was helpful in the investigation or prosecution of that crime. The certification does not guarantee the future conduct of the victim or grant a U visa. USCIS is the only agency that can grant a U visa.

If a victim is granted a U visa and is later arrested or commits immigration violations, federal immigration authorities will respond to those issues.

If a law enforcement agency later discovers information regarding the victim, crime, or certification that the agency believes USCIS should be aware of, or if the agency wishes to withdraw the certification, the law enforcement agency should contact USCIS.

If an investigation or case is closed, can law enforcement still complete Form I-918B? Is there a statute of limitations?

Yes, law enforcement can still complete Form I-918B for an investigation or case that is closed. There is no statute of limitations regarding the time frame in which the crime must have occurred. Federal legislation specifically provides that a victim may be eligible for a U visa based on having been helpful in the past to investigate or prosecute a crime. A crime victim could be eligible to receive U visa certification when, for example, the case is closed because the perpetrator could not be identified; a warrant was issued for the perpetrator but no arrest could be made due to the perpetrator fleeing the jurisdiction or fleeing the United States, or has been deported; before or after the case has been referred to prosecutors, as well as before or after trial whether or not the prosecution resulted in a conviction. The petitioner must still meet all the eligibility requirements for a U visa to be approved.

Can I complete a U visa certification for a victim who is no longer in the United States?

Yes. While the crime must have occurred in the United States, its territories, or possessions, or have violated U.S. law, victims do not need to be present in the U.S. in order to be eligible for a U visa and may apply from outside the United States.

Who determines if the “substantial physical or mental abuse” requirement has been met?

USCIS will make the determination as to whether the victim has met the “substantial physical or mental” standard on a case-by-case basis during its adjudication of the U visa petition. Certifying law enforcement agencies do not make this determination. Certifying agencies may, however, provide any information the agency deems relevant regarding injuries or abuse on Form I-918B. The U visa certification signed by law enforcement states that the person was a victim of a qualifying crime, possessed information relating to the crime, and was helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of that crime. Question 6 of Part 3 on Form I-918B asks that law enforcement provide information about any injuries the law enforcement agency knows about or has documented. While this provides some of the evidence USCIS will use to make the substantial physical or mental abuse determination, the U visa petitioner has the burden of proving the substantial physical or emotional abuse.

USCIS adjudication officers receive extensive training in statutory and regulatory requirements in determining whether a victim has suffered substantial physical or mental abuse. Factors that USCIS uses to make this determination are: the nature of the injury inflicted; the severity of the perpetrator’s conduct; the severity of the harm suffered; the duration of the infliction of the harm; and the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

The existence of one or more of the factors does not automatically signify that the abuse suffered was substantial. The victim will have to provide evidence to USCIS showing that the victim meets the standard of substantial physical or mental abuse.

Can I still certify if the perpetrator is no longer in the jurisdiction or prosecution is unlikely for some reason?

Yes. There is no statutory or regulatory requirement that an arrest, prosecution, or conviction occur for someone to be eligible to apply for a U visa. Instances may occur where the perpetrator has fled the jurisdiction, left the United States, or been arrested for unrelated offenses by another agency in another jurisdiction. An arrest, prosecution, or conviction may not be possible in these situations. The petitioner will still have to meet the helpfulness requirement by reasonably assisting the certifying law enforcement agency, and will also have to meet all other eligibility requirements in order to qualify for a U visa.

Does the victim have to testify to be eligible for certification?

As mentioned above, there is no requirement that an arrest, prosecution, or conviction occur for someone to be eligible for a U visa. While there is no requirement for the victim to testify at a trial to be eligible for a U visa, if the victim is requested to testify, he or she cannot unreasonably refuse to cooperate with law enforcement. If the victim unreasonably refuses to testify, the law enforcement agency should notify USCIS and may withdraw the previously signed Form I-918B.

Can a victim’s petition still be approved if the defendant is acquitted or accepted a plea to a lesser charge, or if the case was dismissed?

Yes. As mentioned above, a conviction is not required for someone to be eligible for a U visa. Plea agreements and dismissals do not negatively impact the victim's eligibility. As long as the victim has been helpful in the investigation or prosecution of the qualifying criminal activity and meets all other eligibility requirements, the victim may petition for a U visa.

If the victim unreasonably refuses to assist the investigation or prosecution and harms the criminal case, that will negatively impact the victim's ability to receive an approval. The certifying law enforcement agency should notify USCIS if the victim has unreasonably refused to cooperate in the investigation or prosecution of the crime.

What constitutes “helpfulness” or “enough cooperation”?

USCIS regulation requires that the victim has been, is being, or is likely to be helpful in the investigation or prosecution of the criminal activity. This means that since the initiation of cooperation, the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.

USCIS will not provide a U visa to those petitioners who, after initially cooperating with law enforcement, refuse to provide continuing assistance when reasonably requested. USCIS also will not approve the petitions of those who are culpable for the qualifying criminal activity.

What if the victim stops cooperating after I sign his/her certification?

At its discretion, a certifying agency may withdraw or disavow a Form I-918B at any time if a victim stops cooperating. To do so, the certifying agency must notify the USCIS Vermont Service Center in writing (see below).

Written notification regarding withdrawal or disavowal should include:

- The agency's name and contact information (if not included in the letterhead);
- The name and date of birth of the individual certified;
- The name of the individual who signed the certification and the date it was signed;
- The reason the agency is withdrawing/disavowing the certification including information describing how the victim's refusal to cooperate in the case is unreasonable;
- The signature and title of the official who is withdrawing/ disavowing the certification; and
- A copy of the certification the agency signed (if a copy was retained by the agency).

The letter should be either scanned and emailed to the Vermont Service Center at LawEnforcement_UTVAWA.vsc@uscis.dhs.gov, or mailed to:

USCIS—Vermont Service Center
ATTN: Division 6
75 Lower Welden Street
St. Albans, VT 05479

If one crime is initially investigated but a different crime is eventually prosecuted, does that have an impact on the certification?

A law enforcement certification is valid regardless of whether the initial crime being investigated is different from the crime that is eventually prosecuted. As long as the person is a victim of a qualifying criminal activity, that person may be eligible for a U visa. Examples include:

- An initial investigation of rape eventually leads to a charge and prosecution of sexual assault. Both rape and sexual assault are qualifying crimes.
- An initial investigation of embezzlement leads to a charge and prosecution of extortion. While embezzlement is not a qualifying crime, the investigation eventually led to a charge of extortion, which is a qualifying crime. If the person assisting in the investigation or prosecution is a victim of extortion, that person may qualify for a U visa.
- In the process of investigating drug trafficking allegations, police determine that the drug trafficker's wife is a victim of domestic violence. The victim reported the domestic abuse. The state brings a prosecution against the husband for drug offenses but not domestic violence crimes. The wife is cooperating in the drug prosecution. Law enforcement may complete a Form I-918B certification for reporting the domestic abuse case that is not being prosecuted.

Form I-918B certifications may also be submitted for crimes similar to the list of qualifying criminal offenses. An investigation or prosecution into a charge of video voyeurism may fall under the qualifying crime of sexual exploitation. This may be determined by state or local criminal law and the facts and evidence in that specific case. Please note that while video voyeurism is not specifically listed as a qualifying crime, it may be considered a type of sexual exploitation, which is a qualifying crime. The victim would need to show how these crimes are related and present this evidence to USCIS, along with Form I-918B certification form signed by a certifying law enforcement agency.

If the victim is a child, why would a non-citizen parent ask for a certification stating that the parent was the victim?

In many cases where a child is the victim of a crime, the child may not be able to provide law enforcement with adequate assistance. This may be due to the child's age or trauma suffered, among various other reasons. Parents of a child victim play a crucial role in detecting and reporting crimes, providing information and assisting law enforcement in the investigation or prosecution of the crime committed against the child. Recognizing this, an alien parent can apply to be recognized as an "indirect victim" if the principal victim is a child under 21 years of age and is incompetent or incapacitated to provide assistance to law enforcement in the investigation or prosecution of the crime committed against the child or if the child is deceased due to murder or manslaughter. The immigration status of the child victim is not relevant to this determination; Form I-918B can be submitted for an alien parent whether or not the child is a U.S. citizen or a non-citizen.

The parent(s), in order to qualify as an "indirect victim", must meet the remaining eligibility requirements for a U visa to receive an approval. Therefore, the "indirect victim" parents must have information about the crime, and must be helpful to law enforcement in the investigation or

prosecution of the crime and the crime must have occurred in the United States or violated U.S. law. The parents will also be subject to the standard background checks (FBI fingerprint and name/DOB check) and immigration records review as well. .

What constitutes “possesses information”?

To be eligible for a U visa, the victim of the crime must possess credible and reliable information establishing that the victim has knowledge of the details of the criminal activity or events leading up to the criminal activity, including specific facts about the crime/victimization leading law enforcement to determine that the victim has assisted, is assisting, or is likely to provide assistance in the investigation or prosecution of the crime.

If the victim was under 16 years of age or incompetent or incapacitated at the time the qualifying crime occurred, a parent, guardian, or next friend may possess the information. A “next friend” is defined as a person who appears in a lawsuit to act for the benefit of an alien who is under 16 or incompetent or incapacitated. The next friend is someone dedicated to the best interests of the individual who cannot appear on his or her own behalf because of inaccessibility, mental incompetence, or other disability. A next friend cannot be a party to a legal proceeding involving the victim and cannot be a court appointed guardian. A next friend also does not qualify for a U visa or any immigration benefit simply by acting as a next friend for the victim, but he or she may possess information about the criminal activity and may provide the required assistance.

Will USCIS approve a victim with a criminal history?

USCIS may deny a U visa petition for a variety of reasons including if the victim’s criminal history warrants such a decision. Denials may occur in cases where a victim has multiple arrests, convictions, or has a serious or violent criminal arrest record. USCIS will also deny a petition if the victim was complicit or culpable in the qualifying criminal activity of which he or she claims the victimization occurred. USCIS conducts background and security checks (FBI fingerprint check, name/DOB check, check of immigration records) on U visa petitioners and reviews all available information concerning arrests, immigration violations, and security issues before making a final decision.

The fact that a victim has a criminal history does not automatically preclude approval of U status. USCIS has broad authority to waive most inadmissibility issues, including criminal issues. Each U visa petition is evaluated on a case-by-case basis.

If law enforcement believes USCIS should know something particular about a victim’s criminal history, that information can be cited on the certification or with an attached report or statement detailing the victim’s criminal history with that law enforcement agency or his or her involvement in the crime.

What are the safeguards for protecting the U visa program against fraud?

Congress and USCIS recognize that law enforcement agencies that investigate and prosecute the qualifying criminal activities are in the best position to determine if a qualifying crime has taken place. If, in the normal course of duties, a law enforcement agency has determined that a qualifying crime

has taken place, the victim possessed information related to the crime, and the victim has been helpful, law enforcement may sign the U visa certification. Whether a law enforcement agency signs the certification is under the authority of the agency conducting the investigation or prosecution. The law enforcement certification also acts as a check against fraud and abuse, as the certification is required in order to be eligible for a U visa.

USCIS takes fraud and abuse of the U visa program seriously. If USCIS suspects fraud in a U visa petition, USCIS may request further evidence from the petitioner and may also reach out to the law enforcement agency for further information. USCIS also has a dedicated unit whose sole purpose is to target and identify fraudulent immigration applications. The Fraud Detection and National Security (FDNS) unit of USCIS conducts investigations of cases that appear fraudulent and works with other Federal, State, and local law enforcement agencies when fraud or abuse is discovered.

As an additional check against fraud, a U visa recipient cannot obtain a green card unless the victim proves that he or she cooperated, when requested, with law enforcement or prosecutors. In order to obtain a green card, if the U visa victim did not cooperate, he or she must prove to DHS' satisfaction that his or her refusal to cooperate was not unreasonable.

Where can my agency get additional training on U visa certifications?

Law enforcement agencies may request additional training and information by emailing USCIS at: T-U-VAWATraining@dhs.gov.

Other Forms of Relief for Victims

Federal law provides additional options to assist law enforcement with providing immigration status to victims and witnesses of crime that may or may not be eligible for the U visa. The following are some of these resources:

T Visa

The T nonimmigrant status (or T visa) provides immigration protection to victims of severe forms of trafficking in persons who comply with reasonable requests for assistance from law enforcement in the investigation or prosecution of human trafficking cases. The T nonimmigrant visa allows victims to remain in the United States to assist in the investigation or prosecution of human traffickers. Unlike the U visa, the T visa does not require a law enforcement certification. Once T nonimmigrant status is granted, a victim can apply for permanent residence after three years. A petitioner for a T visa must send a completed petition ([Form I-914](#)) to USCIS. A signed [I-914 Supplement B](#) may be submitted with the petition to verify that he or she has complied with any reasonable request by law enforcement in the investigation or prosecution of the trafficking crime, but is not required. The certification is one of the pieces of evidence that USCIS will consider to grant or deny a T visa.

VAWA

Recognizing that immigrant victims of domestic violence may remain in an abusive relationship because his or her immigration status is often tied to the abuser, the Violence Against Women Act

(VAWA) in 1994 created a self-petitioning process that removes control from the abuser and allows the victim to submit his or her own petition for permanent residence without the abuser's knowledge or consent. Those eligible for VAWA relief include the abused spouse or former spouse of a U.S. citizen or Lawful Permanent Resident, the abused child of a U.S. citizen or Lawful Permanent Resident, or the abused parent of a U.S. citizen. VAWA immigration relief applies equally to women and men. To file for VAWA immigration relief the self-petitioner must send a completed Form I-360 along with corroborating evidence to USCIS. A law enforcement certification is not needed in these cases.

Continued Presence

Continued Presence (CP) is a temporary immigration status provided to individuals identified by law enforcement as victims of human trafficking who are potential witnesses in an investigation or prosecution. Federal law enforcement officials are authorized to submit a CP application, which should be initiated upon identification of a victim of human trafficking. CP allows victims of human trafficking to remain in the United States during an ongoing investigation into human trafficking-related crimes committed against them. CP is initially granted for one year and may be renewed in one-year increments. Recipients of CP also receive work authorization. CP is authorized by ICE Homeland Security Investigations (HSI) Law Enforcement Parole Unit and can only be sponsored by a federal law enforcement agent.

State, local, tribal and territorial law enforcement officials who would like to request CP for human trafficking victims are encouraged to work with the local HSI office in their area. In addition, Victim Assistance Coordinators can assist law enforcement officials in obtaining referrals to non-governmental victim services providers who can offer a variety of services to assist crime victims, such as immigration legal assistance, crisis intervention, counseling, medical care, housing, job skills training, and case management.

CP is an important tool for federal, state, and local law enforcement in their investigation of human trafficking-related crimes. Victims of human trafficking often play a central role in building a case against a trafficker. CP affords victims a legal means to temporarily live and work in the United States, providing them a sense of stability and protection. These conditions improve victim cooperation with law enforcement, which leads to more successful prosecutions and the potential to identify and rescue more victims. Although cooperation with law enforcement is not an eligibility criterion for CP, victims who are cooperating do receive eligibility for social service benefits through the Department of Health and Human Services Office of Refugee Resettlement. Victims may qualify for other forms of immigration benefits depending on their unique circumstances.

Significant Public Benefit Parole

Significant Public Benefit Parole (SPBP) may be utilized to bring an individual to serve as a witness, defendant, or cooperating source, and if necessary in extremely limited cases, the individual's immediate family members, into the United States for up to one year. It must be emphasized that SPBP will only be granted for the minimum period of time required to accomplish the requested purpose, e.g., if a trial is 3 months long, parole will be granted for 3 months. SPBP is a temporary measure used to allow an individual who is otherwise inadmissible to be present in the United States. SPBP does not

constitute a formal admission to the United States and confers only temporary authorization to be present in the United States without having been admitted. Employment authorization may be granted.

Deferred Action

Deferred Action (DA) is a discretionary decision-making authority that allows DHS to determine which cases merit the commitment of limited resources. It is exercised on a case-by-case basis that focus on the priorities of DHS, by targeting serious criminals and those who are a threat to public safety, and potentially deferring action on cases with a lower priority. There is no statutory definition of DA, but federal regulations provide a description: “[D]eferred action [is] “an act of administrative convenience to the government which gives some cases lower priority....” See 8 C.F.R. § 274a.12(c)(14). DHS officers, special agents, and attorneys consider every DA request individually to decide whether; based on the totality of the circumstances, a favorable grant of deferred action is appropriate. DA requests may, among other things, be based on humanitarian facts and a low-enforcement priority or may be based on an individual’s status as an important witness in an investigation or prosecution. It does not provide a pathway to permanent residency.

DHS Contact Information

For more information about the U visa program and law enforcement certifications, please see:

U.S. Citizenship and Immigration Services

www.uscis.gov

www.uscis.gov/humantrafficking

To ask a question about a specific case or to rescind a signed certification:

LawEnforcement_UTVAWA.VSC@uscis.dhs.gov. Please note that this e-mail address is for law enforcement personnel only. Any e-mail sent by any person or entity that is not law enforcement to this specific e-mail address will not be answered.

To request U visa training for your agency:

T-U-VAWATraining@dhs.gov

To ask specific policy questions about T and U visa certifications, call USCIS at (202) 272-1470.

Petitioners and their representatives may submit an inquiry regarding a specific case by emailing:

hotlinefollowupI918I914.vsc@dhs.gov

Citizenship and Immigration Services Ombudsman

To refer U visa petitioners who are experiencing problems that have not been able to be resolved through DHS customer assistance avenues:

www.dhs.gov/cisombudsman
Toll Free: (855) 882-8100
Phone: (202) 357-8100
Email: cisombudsman@dhs.gov

Immigration and Customs Enforcement

If a law enforcement official is aware of a victim or witness against whom a detainer has been lodged, who has been detained, who has been placed in removal proceedings for an immigration violation, or who has been ordered removed, the official should promptly contact their local ICE Enforcement and Removal Operations (ERO) contact or the local Office of the Principal Legal Advisor (OPLA) to make ICE aware of the situation.

To contact your local ICE ERO office, please see the list of contact information here:
<http://www.ice.gov/contact/ero/>

To contact your local ICE OPLA office, please see the list of contact information here:
<http://www.ice.gov/contact/opla/>

Specifically with regard to a lodged detainer, the law enforcement official should notify the ICE Law Enforcement Support Center:

www.ice.gov/contact/lesc/
Phone: (802) 872-6050
Email: ice.osltc@dhs.gov

LESC Computer Services Division
188 Harvest Lane
Williston, Vermont 05495

Office of Civil Rights and Civil Liberties

To refer individuals who would like to file a complaint concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department of Homeland Security:

By mail or phone:
Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Building 410, Mail Stop #0190
Washington, D.C. 20528

Phone: (202) 401-1474
Toll Free: (866) 644-8360
TTY: (202) 401-0470
Toll Free TTY: (866) 644-8361
Fax: (202) 401-4708

E-mail: crcl@dhs.gov

Office for State and Local Law Enforcement

For information about DHS coordination with federal, state, local, territorial, and tribal law enforcement, please contact the DHS Headquarters Office for State and Local Law Enforcement.

Phone: (202) 282-9545

Email: oslle@hq.dhs.gov

More Federal Government Resources Available:

[DHS Blue Campaign](#), which includes links to help locate local service providers with experience with immigrant victims of crime.

[USCIS Victims of Criminal Activity: U Nonimmigrant Status](#)

[USCIS Questions and Answers: Victims of Criminal Activity, U Nonimmigrant Status](#)

[DHS Ombudsman Teleconference Recap: U Visas](#)

[October 2009 FBI Law Enforcement Bulletin: The U Visa](#)

[Immigration and Customs Enforcement Toolkit for Prosecutors](#)

**U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS**

State or Local Government: FY 2017 Certification of Compliance with 8 U.S.C. § 1373

On behalf of the applicant government entity named below, and in support of its application, I certify under penalty of perjury to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct:

(1) I am the chief legal officer of the State or local government of which the applicant entity named below is a part ("the jurisdiction"), and I have the authority to make this certification on behalf of the jurisdiction and the applicant entity (that is, the entity applying directly to OJP). I understand that OJP will rely upon this certification as a material representation in any decision to make an award to the applicant entity.

(2) I have carefully reviewed 8 U.S.C. § 1373(a) and (b), including the prohibitions on certain actions by State and local government entities, -agencies, and -officials regarding information on citizenship and immigration status. I also have reviewed the provisions set out at (or referenced in) 8 U.S.C. § 1551 note ("Abolition ... and Transfer of Functions"), pursuant to which references to the "Immigration and Naturalization Service" in 8 U.S.C. § 1373 are to be read, as a legal matter, as references to particular components of the U.S. Department of Homeland Security.

(3) I (and also the applicant entity) understand that the U.S. Department of Justice will require States and local governments (and agencies or other entities thereof) to comply with 8 U.S.C. § 1373, with respect to any "program or activity" funded in whole or in part with the federal financial assistance provided through the FY 2017 OJP program under which this certification is being submitted ("the FY 2017 OJP Program" identified below), specifically including any such "program or activity" of a governmental entity or -agency that is a subrecipient (at any tier) of funds under the FY 2017 OJP Program.

(4) I (and also the applicant entity) understand that, for purposes of this certification, "program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. § 2000d-4a), and that terms used in this certification that are defined in 8 U.S.C. § 1101 mean what they mean under that section 1101, except that the term "State" also shall include American Samoa (cf. 42 U.S.C. § 901(a)(2)). Also, I understand that, for purposes of this certification, neither a "public" institution of higher education (i.e., one that is owned, controlled, or directly funded by a State or local government) nor an Indian tribe is considered a State or local government entity or -agency.

(5) I have conducted (or caused to be conducted for me) a diligent inquiry and review concerning both—

(a) the "program or activity" to be funded (in whole or in part) with the federal financial assistance sought by the applicant entity under this FY 2017 OJP Program; and

(b) any prohibitions or restrictions potentially applicable to the "program or activity" sought to be funded under the FY 2017 OJP Program that deal with sending to, requesting or receiving from, maintaining, or exchanging information of the types described in 8 U.S.C. § 1373(a) or (b), whether imposed by a State or local government entity, -agency, or -official.

(6) As of the date of this certification, neither the jurisdiction nor any entity, agency, or official of the jurisdiction has in effect, purports to have in effect, or is subject to or bound by, any prohibition or any restriction that would apply to the "program or activity" to be funded in whole or in part under the FY 2017 OJP Program (which, for the specific purpose of this paragraph 6, shall not be understood to include any such "program or activity" of any subrecipient at any tier), and that deals with either— (1) a government entity or -official sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. § 1373(a); or (2) a government entity or -agency sending to, requesting or receiving from, maintaining, or exchanging information of the types (and with respect to the entities) described in 8 U.S.C. § 1373(b).

I acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in this certification, or in the application that it supports, may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 42 U.S.C. § 3795a), and also may subject me and the applicant entity to civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. §§ 3729-3730 and §§ 3801-3812). I also acknowledge that OJP awards, including certifications provided in connection with such awards, are subject to review by USDOJ, including by OJP and by the USDOJ Office of the Inspector General.



Signature of Chief Legal Officer of the Jurisdiction

Jeffrey R. Jurgens

Printed Name of Chief Legal Officer

August 17, 2017

Date of Certification

Corporation Counsel

Title of Chief Legal Officer of the Jurisdiction

City of Bloomington

Name of Applicant Government Entity (i.e., the applicant to the FY 2017 OJP Program identified below)

FY 2017 OJP Program: Byrne Justice Assistance Grant ("JAG") Program



**SPECIAL SESSION MEETING
AGENDA ITEM NO. 5**

FOR COUNCIL: December 18, 2017

SUBJECT: Presentation and Discussion of the Downtown Task Force Final Report

RECOMMENDATION/MOTION: Discussion Only

STRATEGIC PLAN LINK: Goal 6: Prosperous Downtown Bloomington

STRATEGIC PLAN SIGNIFICANCE: Objective 1.A- More beautiful, clean Downtown area; Objective 1.B- Downtown Vision and Plan used to guide development, redevelopment and investments; Objective 1.C- Downtown becoming a community and regional destination

BACKGROUND:

Over the last few decades metropolitan downtowns across the country have changed dramatically. Areas that were once negatively impacted by shopping malls and urban sprawl are being reinvented and reinvigorated. Downtown Bloomington is no different and has the potential to enhance the livability of our community and have a regional economic impact.

In line with the importance of a revitalized Downtown, the Downtown Task Force Committee was formed on May 8, 2017 to establish top priorities for Downtown Bloomington revitalization and development for the next three to five years. The nine member committee, comprised of various constituencies in the community, also was tasked with proposing an action plan to move those priorities to fruition.

Bloomington City Council requested that the Task Force focus on merging the contents of the city's various approved planning documents and to provide source notations in order to provide a "line of sight" between the Task Force recommendations and the comprehensive plans, which represent extensive public input. The Task Force also held a public listening session and actively encouraged public participation in its discussions. The Task Force submitted an interim report to City Council on August 31, 2017, and is submitting its final report prior to the December 31, 2017 deadline in order to allow City Council time to incorporate these proposals into the FY2019 budget, if desired.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:

The Downtown Task Force encouraged members of the public to actively participate in its meeting discussions and has solicited and received written public comment throughout the process. A public listening session was held on June 27, 2017, and resulted in a robust conversation about Downtown visioning and priorities.

FINANCIAL IMPACT: For discussion purposes only.

COMMUNITY DEVELOPMENT IMPACT: Not applicable.

FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION: Not applicable.

Respectfully submitted for Council consideration.

Prepared by: Melissa Hon, Assistant to the City Manager

Financial & budgetary review by: Chris Tomerlin, Budget Analyst
Scott Rathbun, Sr. Budget Manager

Legal review by: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:



Steve Rasmussen
Interim City Manager

Attachments:

- ADMIN 1B Attachment Downtown Task Force Final Report

10/24/2017

DOWNTOWN BLOOMINGTON TASK FORCE FINAL REPORT



OVERVIEW

The Downtown Bloomington Task Force was formed on May 8, 2017 in order to establish top priorities for Downtown Bloomington revitalization and development for the next three to five years. City Council requested that the Task Force focus on merging the contents of the city's various approved planning documents and to provide source notations in order to provide a "line of sight" between the Task Force recommendations and the comprehensive plans, which represent extensive public input. The Task Force also held a public listening session and actively encouraged public participation in its discussions. The Task Force submitted an interim report to City Council on August 31, 2017. The final report originally was anticipated to be completed by December 31, 2017. The Task Force is submitting its final report ahead of schedule in order to allow City Council time to incorporate these proposals into the FY2019 budget, if desired.

MEMBERS

Kim Bray, Bloomington City Council, Ward 9
Jamie Mathy, Bloomington City Council, Ward 1
Amelia Buragas, Bloomington City Council, Ward 4 (chair)
Carlo Robustelli, McLean County Board
Tricia Stiller, Director, Downtown Bloomington Association
Justin Boyd, Chair, Bloomington Planning Commission
Mike Manna, Downtown Business Owner
Bobby Varicella, Downtown Business Owner
Joe Haney, Downtown Business Owner

REFERENCE DOCUMENTS

Bring It On Bloomington! 2035 Comprehensive Plan (2015)
Downtown Strategy Plan (Farr Plan) (2013)
Main Street Transportation Feasibility Study (2012)
Downtown Streetscape Lighting Master Plan (2015)

PRESENTATIONS

- Steve Rasmussen, Assistant City Manager, "Downtown Update."
- Tom Dabareiner, Director, Community Development Department, "Comprehensive Plan Overview," "Results of 2016 Downtown Stakeholder Meeting," and "Catalyst Project Overview."
- Greg Koos, Director Emeritus, McLean County History Museum and Lea Cline, Vice Chair, HPC, "Historic Preservation."
- Jim Karch, Director, Public Works, "Downtown Infrastructure."
- Vasu Pinnamaraju, Executive Director, McLean County Regional Planning Commission, "Public Places."
- Jay Tetzloff, Robert Moews and David Lamb, Parks and Recreation Department, "Downtown Beautification."
- Ken Bays, Assistant Chief of Police, "Downtown Crime Statistics."

SUMMARY OF RECOMMENDATIONS

Downtown revitalization efforts can be divided into three general categories: Placemaking, Catalyst, and Supportive. The majority of the Task Force recommendations fall under placemaking and have been divided into the following two subcategories: Beautification/Public Art and Public Places/Walkability.

The Task Force recommendations focus on placemaking because this category offers simple, easy-to-achieve and comparatively inexpensive opportunities to improve and enhance the Downtown area with a high potential return on investment. The Task Force also makes recommendations in the supportive category related to improving availability of public parking. Finally, the Task Force notes that the Downtown Strategy recommends a catalyst project that will “attract visitors and increase retail, restaurant, and service business.” Catalyst projects are larger in nature and reflect a much more significant public investment. The Task Force recommendations for catalysts are based on the projects that are most likely to be successful based on current opportunities. They also reflect existing needs in the Downtown area. The Task Force recognizes that any catalyst projects will require significant public support in order to be feasible.

Please note that the Task Force has limited its recommendations to the Downtown “core,” or that area of Downtown roughly defined by Madison Street, East Street, Market Street, and Front Street. This approach is consistent with the Downtown Strategy Plan. The Task Force did not consider recommendations outside of this area, but notes that significant opportunities for development and revitalization exist in the expanded Downtown area, which includes the Warehouse District and surrounding transitional and residential areas.



SECTION 1: BEAUTIFICATION / PUBLIC ART

Residents take great pride in the efforts made in recent years to increase the visual appeal of Downtown Bloomington. Residents report a strong desire to add additional trees for shade as well as to increase the amount of green space. There also is a desire to continue to support the work of local artists and to foster a unique identity through the integration of public art into Downtown spaces.

PLANNING DOCUMENT REFERENCES

“Public art is a great way to beautify and add character to a Downtown.” *Downtown Strategy*, pg. 60.

“Street trees are indispensable to the attractiveness and safety of the Downtown core. Street trees make the street appear narrower to drivers and typically result in a decrease in traffic speed, making the environment more conducive to walking.” *Downtown Strategy*, pg. 59.

“A proper amount of street trees is vital to complement the proposed street lights and existing architecture of Downtown.” *Streetscape Master Plan*, pg. 27.

“A sophisticated public art program could complement tourism and branding efforts.” *Streetscape Master Plan*, pg. 28.

“[P]ublic art can transform the city’s gateways, corridors, and neighborhoods alike.” *Comprehensive Plan*, pg. 112.

N-2.3d Establish a program for public art. BCPA, short. *Comprehensive Plan*, pg. 57.

ACH-1.1e Increase visual arts in the public sphere Downtown. BCPA, ongoing. *Comprehensive Plan*, Pg. 114.

ACH-5. Encourage the use of public art to enhance neighborhoods and public spaces and foster engagement throughout the community. *Comprehensive Plan*, pg. 122.

CF-2.2b Emphasize use of native plants and trees on public grounds. City of Bloomington, ongoing. *Comprehensive Plan*, pg. 219.

RECOMMENDATIONS

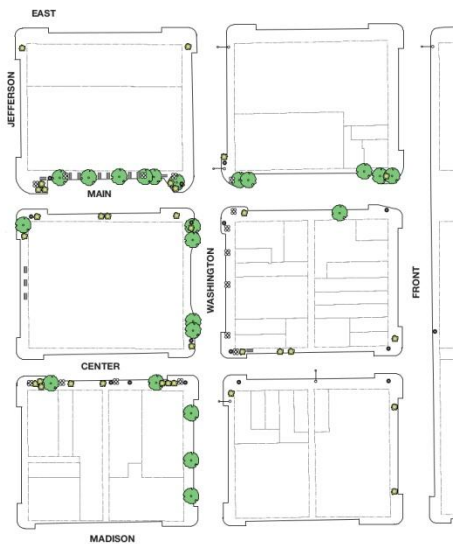
1. DESIGNATE THE DOWNTOWN CORE AS A “PUBLIC PARK” OR “GREEN SPACE” TO EMPOWER THE PARKS & RECREATION DEPARTMENT TO ACTIVELY MAINTAIN AND PROGRAM IN PUBLIC SPACES IN A WAY THAT MAXIMIZES AESTHETIC APPEAL AND ADDS ARTS AND CULTURAL PROGRAMMING. FOCUS ON ADDITIONAL SHADE TREES AS WELL AS PERENNIAL, DROUGHT-TOLERANT, NATIVE PLANTINGS, AND RAIN GARDENS.

SECTION 1: BEAUTIFICATION / PUBLIC ART (CONTINUED)

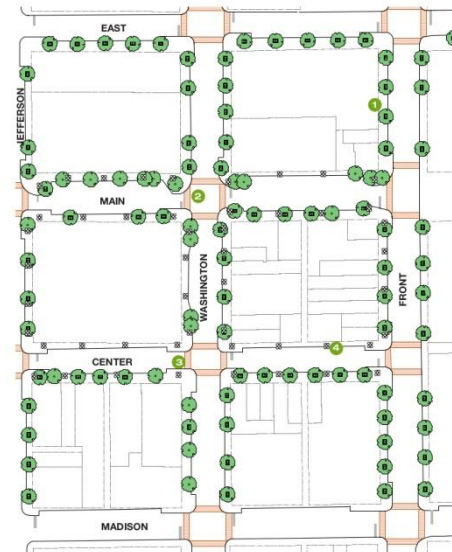
RECOMMENDATIONS: BEAUTIFICATION / PUBLIC ART (CONTINUED)

2. SELECT AND MAKE AVAILABLE TO BUSINESS OWNERS SELF-WATERING PLANTERS THAT ARE UNIFORM IN APPEARANCE TO BE PURCHASED BY, PLACED IN FRONT OF, AND MAINTAINED BY DOWNTOWN BUSINESSES. USE PRIVATE SPONSORSHIPS TO INCREASE NUMBER OF PLANTINGS IN THE DOWNTOWN AREA AND/OR FUND PLANTING OF LARGER TREES.
3. ENGAGE IN ADDITIONAL PUBLIC ART PROJECTS, SUCH AS DECORATIVE PAINTED CROSSWALKS OR SIDEWALK ART. EXPLORE THE USE OF TACTIAL URBANISM TO INCREASE ART IN THE PUBLIC SPACE.
4. INSTALL ADDITIONAL DECORATIVE LIGHTING DOWNTOWN (EX. CANOPY LIGHTING ACROSS THE STREET OR BETWEEN FAÇADE AND TREES/LIGHT POLES). INSTALL ADDITIONAL ELECTRICAL CONDUITS AS OPPORTUNITIES ARISE.

EXAMPLES: BEAUTIFICATION / PUBLIC ART



EX. 1A: CURRENT STREETSCAPE



EX. 1B: ENHANCED STREETSCAPE

EXAMPLES: BEAUTIFICATION / PUBLIC ART (CONTINUED)



EX. 2: DECORATIVE PAINTED CROSSWALK



EX. 4: STREET ART



EX. 3: DECORATIVE LIGHTING



EX. 5: DECORATIVE LIGHTING

SECTION 2: PUBLIC SPACES / WALKABILITY

Many residents view Downtown as a central hub for our community and express a strong desire for additional public spaces in Downtown Bloomington. These spaces also are ideal for use in programming and special events to bring people into the Downtown area. Walkability is a key feature of downtowns and an area that poses tremendous opportunity to adopt innovative practices when it comes to utilization of the public right-of-way and integration of multi-modal transportation.

PLANNING DOCUMENT REFERENCES

“Currently, parking lots and vacant parcels within Downtown create gaps in the built environment. Utilizing these spaces as patios, plazas, small parks, or other public spaces will help make the street more active and lively place.” *Downtown Strategy, pg. 38.*

“To improve the safety of pedestrians walking around Downtown, it is recommended that special paving treatment, such as cobblestones or brick, be installed at a width of at least eight feet at key intersections as shown on Figure V-24.” *Downtown Strategy, pg. 59.*

“Challenges within Downtown include restoring high levels of walkability that existed in Bloomington prior to World War II. In the last 50 years, modern traffic engineering and development patterns have emphasized automobile transportation over walkability. The resulting street grid is harsh and uninviting to pedestrians.” *Downtown Strategy, pg. 54.*

D-5.2 Enhance the walkability and bikeability within and to Downtown and facilitate access to car-sharing and bike-sharing in the Downtown district. *Comprehensive Plan, pg. 108.*

RECOMMENDATIONS: PUBLIC PLACES / WALKABILITY

1. PARTNER WITH MCLEAN COUNTY TO ENHANCE THE PUBLIC SPACES CURRENTLY LOCATED IN FRONT OF THE LAW & JUSTICE CENTER AND AROUND THE MCLEAN COUNTY MUSEUM OF HISTORY. PRIORITIZE MAINTENANCE, CLEANLINESS, AND INSTALLATION OF DROUGHT-RESISTANT, NATIVE PLANTINGS. MAKE THESE SPACES AVAILABLE FOR CITY PROGRAMMING (EX. LAWN GAMES DURING FARMER’S MARKET, PUBLIC SEATING, LIVE MUSIC DURING FIRST FRIDAYS, ETC.)
2. TRANSITION FROM A STREETS/SIDEWALKS MODEL TO A “SHARED SPACE” MODEL IN THE DOWNTOWN CORE. THIS ALLOWS FULL USE OF THE PUBLIC RIGHT-OF-WAY BY ALL USERS, CREATES A UNIQUE ENVIRONMENT, AND HONORS OUR HISTORIC PAST. EXPLORE OPPORTUNITIES CREATED BY PROPOSED RESURFACING OF JEFFERSON STREET AND FRONT STREET IN 2018.

SECTION 2: PUBLIC SPACES / WALKABILITY (CONTINUED)

RECOMMENDATIONS (CONTINUED)

3. INSTALL BRICK OR STAMPED CONCRETE CROSSWALKS. ALTERNATIVE: DECORATIVE PAINTED CROSSWALKS.
4. REEXAMINE PERMITTING REQUIREMENTS FOR OUTSIDE SEATING AND SIDEWALK RETAIL TO ENCOURAGE GREATER USE OF THE PUBLIC RIGHT-OF-WAY BY DOWNTOWN BUSINESSES WITHOUT BLOCKING PEDESTRIAN MOVEMENT.

EXAMPLES: PUBLIC SPACES / WALKABILITY



EX. 1: SHARED ROAD MODEL



EX. 2: PUBLIC PLAZA

SECTION 3: PUBLIC PARKING

Residents continue to report the perception that Downtown lacks sufficient, convenient parking. In the short term, the Task Force recommends changes to increase the amount of on-street parking for visitors to Downtown. This will alleviate current frustrations as the city works to improve parking facilities and toward a long-term culture shift in parking expectations.

PLANNING DOCUMENT REFERENCES

“Local parking consultants estimate that the distance people are willing to walk between parking and their downtown Bloomington destination ranges from between 500 feet for visitors and one-quarter mile for employees. Where willingness-to-walk range is this limited—vibrant downtowns can count on walking ranges that begin at ¼ mile—it is difficult for downtown destinations to rely on public parking supplies for their access needs. It is also a sign that parkers find the downtown environment less-stimulating than it should be.” *Downtown Strategy, pg. 121-22.*

“Relieve pressure for surface parking lots by offering convenient spaces within public parking decks.” *Downtown Strategy, pg. 50.*

“Require employees to park off-street in public parking decks or lots.” *Downtown Strategy, pg. 52*

“One of the key recommendations includes the installation of parking meters in specified locations in Downtown. Currently on-street parking is free in all of Downtown, leading to congestion in several areas. Pricing on-street parking according to demand will help greatly in managing those spaces and also provide a revenue source.” *Downtown Strategy, pg. 6.*

D-5. Continue to develop multi-modal transportation network in Downtown. *Comprehensive Plan, pg. 107.*

D-5.1. Improve parking conditions and access and encourage shared public and private parking supplies. *Comprehensive Plan, pg. 107.*

RECOMMENDATIONS: PUBLIC PARKING

1. MOVE ALL CITY AND COUNTY OWNED VEHICLES INTO COVERED PARKING GARAGES TO MAKE SURFACE LOT SPACES AVAILABLE FOR DOWNTOWN VISITORS. EXPLORE OPPORTUNITIES FOR SHARED USE OF PRIVATE SURFACE PARKING LOTS TO MAXIMIZE USAGE.

SECTION 3: PUBLIC PARKING

RECOMMENDATIONS: PUBLIC PARKING

2. REMOVE ONE LANE OF TRAFFIC ON BOTH MAIN AND CENTER STREETS WITHIN THE CORE OF DOWNTOWN BLOOMINGTON. CHANGE PARALLEL PARKING SPOTS ALONG MAIN AND CENTER TO DIAGONAL PARKING SPOTS TO INCREASE THE NUMBER OF ON-STREET SPOTS. INSTALL LOADING ZONES TO PREVENT VEHICLE CONGESTION. INCLUDE ONE “SHORT TERM” PARKING SPOT ON EACH BLOCK OF MAIN STREET AND CENTER STREET (EX. 15 MINUTE PARKING). LENGTHEN ENFORCEMENT OF ON-STREET PARKING TIME LIMITS.
3. MOVE FORWARD WITH PARKING NEEDS STUDY, INCLUDE ANALYSIS OF FUTURE INSTALLATION OF PARKING METERS.



Figure 3.2c – Conceptual view looking west on Jefferson Street at Center Street. Letters correspond to amenities highlighted on Page 13.

SECTION 4: CATALYST PROJECT

There are 29 acres of developable land within the expanded Downtown area, which includes vacant and under-utilized properties. Examples of under-utilized properties include single-use parking garages and surface parking lots. This creates enormous potential for private and public sector investment in the Downtown area.

PLANNING DOCUMENT REFERENCES

“Develop a catalyst project that can serve as an additional Downtown “anchor.” *Downtown Strategy, pg. 64.*

“Attract and grow new anchors for Downtown Bloomington. It will be a number of years before a single large retail anchor exists or is viable. In the interim, other non-retail anchors can help to fill in the gaps in the Downtown streetscape and also draw more foot traffic and residents to the area. Such opportunities include a library, YMCA, or community college.” *Downtown Strategy, pg. 22.*

“There are many surface parking lots within Downtown, many of which are not being utilized to their full potential. As Downtown’s market for housing and retail improves, demand to develop these parking lots will increase, particularly within the Madison-East couplet. Such redevelopment should be encouraged whenever possible.” *Downtown Strategy, pg. 38.*

“Place a high priority on the development of a hotel in Downtown.” *Downtown Strategy, pg. 22.*

“There is potential for a hotel to develop on [Butler/Elks Lot] due to its proximity to the U.S. Cellular Coliseum and other Downtown attractions.” *Downtown Strategy, pg. 50.*

D-1 Continue to build a healthy Downtown that offers a range of employment, retail, housing, cultural, and entertainment opportunities for all. *Comprehensive Plan, pg. 101.*

D-1.1g Prioritize mixed-use development/redevelopment projects for the Downtown area. City of Bloomington, ongoing. *Comprehensive Plan, pg. 101.*

D-1.2 Pursue catalyst projects that can serve as additional Downtown anchors. *Comprehensive Plan, pg. 102.*

D-1.4 Develop a wide variety of Downtown housing options. *Comprehensive Plan, pg. 102.*

ADDITIONAL INFORMATION

MARKET STREET GARAGE. The Market Street Parking Garage is owned by the City of Bloomington. It was built in 1974 and has 550 total parking spaces (492 are available for rent and 70 percent of those spaces currently are rented). In 2009, the structural condition of the garage was rated as “poor.” The city determined that structural repairs were necessary in order to extend the garage life span. Phase One of repairs was completed in 2010 at a cost of \$250,000. Phases Two and Three were completed in 2013 at a combined cost of \$750,000. Since 2013, only minor maintenance has been performed at the garage and additional structural repairs are needed. Staff reports that funds for an additional structural evaluation of the garage will be included in the draft FY2019 budget. The facilities department reports that additional structural repairs will keep the facility operational in the near term; however, “the rate of return exponentially decreases with the age of the structure.” City staff estimates that additional structural repairs may extend the life span of the garage up to an additional 10 years, at which time a replacement plan must be in place. The cost for these repairs likely will exceed \$1 million.

BLOOMINGTON PUBLIC LIBRARY. The Bloomington Public Library currently has 1,000 visitors per day and is in the feasibility phase of a major expansion proposal. The Library has provided conceptual sketches as well as preliminary cost estimates for expansion at its current location. (Appendix A). The Library’s cost estimates do not include the expense of moving all or part of the current Public Works facility, which would be necessary in order to accommodate expansion. The estimate also does not include a parking structure or any additional development that is shown in the conceptual drawings. The Community Development Department has not reviewed the Library’s plans for expansion at its current site for consistency with the Comprehensive Plan or Downtown Strategy.

RESIDENTIAL DEVELOPMENT. There is significant capacity for growth in residential housing in the Downtown area. The Community Development Department calculates that a fully revitalized Downtown area could accommodate an additional 950 units, which is nearly double the current number of units. New units should be phased-in over time to avoid having a negative impact on current occupancy rates.

CONNECT TRANSIT. The Front Street transfer station accommodates 1,300 Connect Transit riders per day, making it the second busiest transfer station in the community. Connect Transit reports that the current on-street location is inadequate and has expressed a strong desire to partner with the City to make a transfer station part of any catalyst project (they are not interested in partnering on any project outside the core of Downtown). Connect Transit notes that their involvement makes any project potentially eligible for state and federal grants and/or low interest loans. Public Works also reports that city streets are not built to accommodate the wear and tear of an on-street transfer site and that the current location is causing accelerated deterioration of Front Street. Connect Transit is conducting a site analysis of the Market Street garage location and will share the results with City Council.

SECTION 4: CATALYST PROJECT (CONTINUED)

RECOMMENDATIONS: CATALYST PROJECT

The Task Force is recommending three areas for potential exploration of catalyst projects. These recommendations are ranked into tiers based on current opportunities, level of risk, availability of partnerships, and overall community need.

TIER 1

DEVELOP THE MARKET STREET GARAGE INTO A MIXED USE FACILITY INCLUDING PARKING, TRANSFER STATION, & PUBLIC LIBRARY.

This proposal is listed as a Tier 1 project because of the imminent need to address the Market Street garage, the relatively few barriers to development of this parcel, the size of the parcel available for development, and the ability to bring together multiple community needs into a single project, which could realize significant financial savings. A successful project at the Market Street block could transform an under-performing quadrant of the Downtown core into a vibrant area that brings new visitors Downtown. Partnering with Connect Transit creates alternative funding options as it would make the project eligible for federal low interest loans and grants. This also represents a “low risk” investment as there already is significant need both for expanded library facilities as well as a new transfer station. If inclusion of the library in this project is not feasible or desirable, the City could alternatively consider a mixed use facility including housing or office space.



SECTION 4: CATALYST PROJECT (CONTINUED)

RECOMMENDATIONS: CATALYST PROJECT (CONTINUED)

ADDITIONAL PLANNING DOCUMENT REFERENCES RELATED TO THE TIER 1 RECOMMENDATION

“*Attract and grow new anchors for Downtown Bloomington.* It will be a number of years before a single large retail anchor exists or is viable. In the interim, other non-retail anchors can help to fill the gaps in the Downtown streetscape and also draw more foot traffic and residents to the area. Such opportunities could include a library, YMCA, or community college.” *Downtown Strategy Plan, page 22.*

“The Market Street parking garage is a major public parking facility in Downtown Bloomington. The facility will either need substantive repairs or to be torn down in the near future.” *Downtown Strategy, pg. 12.*

“The Market Street Parking Garage is in a state of disrepair and is slated for redevelopment by the City of Bloomington. This site represents one of the largest redevelopment parcels available in Downtown and is a great opportunity to kick start development in Downtown.” *Downtown Strategy, pg. 24.*

“[Market Street] is one of the most promising sites for redevelopment: the existing parking garage has exceeded its design life span and is falling into disrepair, the site is well-positioned to build on the existing strength of nearby Main Street businesses, and the city already owns the site. The City must view development of the parking garage as an opportunity to support Downtown rather than simply replace an aging structure.” *Downtown Strategy, pg. 64.*

“The evaluation of community facilities includes appropriate locations for diverse types of facilities. Those which serve the entire community, such as the Bloomington Public Library, should be located in the City core, preferably in the Downtown district. This area of Bloomington is accessible, and the concentrations of facilities intended for all community members increases their ease of use.” *Comprehensive Plan, pg. 212.*

“Concentrating community facilities serving the entire City, such as the library and City offices, in the Downtown serves the community well. This concentration is fiscally sustainable, helps keep the Downtown vibrant, and is accessible by public transit.” *Comprehensive Plan, pg. 17.*

“D-1.2b—Consider other Downtown needs during the expansion of community facilities currently located in Downtown, such as the BCPA/Creativity Center and the Bloomington Public Library. City of Bloomington, short.” *Comprehensive Plan, pg. 102.*

“D-5.3a—Upgrade Front Street transfer location. Connect Transit, short.” *Comprehensive Plan, pg. 108.*

CATALYST PROJECT (CONTINUED)

RECOMMENDATIONS: CATALYST PROJECT (CONTINUED)

TIER 2

EXPLORE MORE AGGRESSIVE OPTIONS FOR ACQUISITION AND/OR DEVELOPMENT OF VACANT PROPERTIES IN THE DOWNTOWN AREA SUCH AS FRONT & CENTER AND CII EAST. CONTINUE TO PURSUE A HOTEL AND CONFERENCE CENTER DEVELOPMENT NEAR THE ARENA.

This is listed as a Tier 2 priority because of the barriers to acquisition, the unknowns of adaptive re-use, unknown market conditions, and the lack of currently viable proposals for development of these sites.

TIER 3

INCENTIVIZE RE-DEVELOPMENT OF SURFACING PARKING LOTS INTO MIXED-USE PROJECTS, WITH AN EMPHASIS ON GROUND FLOOR RETAIL AND UPPER LEVEL RESIDENTIAL.

This is listed as a Tier 3 priority because it will be more successful as revitalization of Downtown matures. This will result in a need to offer fewer financial incentives because the private sector will be able to obtain a reasonable return on its investment without public assistance.



EX. 1: MARKET & MAIN (CURRENT)



EX. 2: MARKET & MAIN (REDEVELOPED)

ADDITIONAL AREAS OF OPPORTUNITY

The following items have been identified as additional areas of opportunity. The Task Force recommends that the City Council continue to work with community partners to explore opportunities in these areas for potential short or mid-term improvement.

1. Partner with Town of Normal, Illinois Department of Transportation, and McLean County Economic Development Council to pursue state and federal funding for the Main Street Corridor Plan.
2. Install public restrooms.
3. Install permanent public recycling bins.
4. Support private efforts to address homelessness in the Downtown area. (Ex. *Change to Make a Change*).
5. Empower Historic Preservation Commission to evaluate buildings in Downtown for an S-4 designation.
6. Adopt zoning changes that support development consistent with a Downtown district.
7. Continue efforts to improve wayfinding in Downtown through additional signage.
8. Place a high priority on modernizing infrastructure in the Downtown area.

CONCLUSION

The Task Force thanks the Bloomington City Council for the opportunity to serve and hopes that this report will serve as a useful roadmap to accomplish some of the goals contained in the City's various planning documents over the next several years. The Task Force firmly believes that the opportunity exists for the City of Bloomington to build on prior revitalization efforts and to make meaningful improvements in Downtown in the short term. The Task Force notes that many of the identified areas of opportunity have relatively low barriers to moving forward and a high potential return on investment. However, there also remains a need to explore larger, catalytic projects in order to truly capture the untapped potential of Downtown.

Bloomington Public Library Expansion Costs

	Conceptual Site Plan #1	Conceptual Site Plan #4
Renovation of existing building (incl. mid-range furnishings)	\$9,975,000.00	\$0.00
New Construction (incl. mid-range furnishings)	\$12,600,000.00	\$29,700,000.00
Site Work and Other Construction (incl. a parking lot)	\$2,750,000.00	\$3,000,000.00
Contingency (7.5%)	\$1,899,375.00	\$2,452,500.00
Miscellaneous Costs (A/E fees, legal fees, etc. - 11.8%)	\$3,212,476.25	\$4,147,995.00
TOTAL:	\$30,436,851.25	\$39,300,495.00
BPL Contribution:	17.58%	13.62%

***Note these are rough numbers based on 2017 Construction Season and not based on any schematic designs

"Band-aid approach" (i.e. minimum building maintenance needed) is at least \$2,000,000

Regarding the cost of a new parking deck: The Uptown Normal parking (which Farnsworth designed) was built in 2008/2009, at a cost of \$12.6M (construction cost only). It has 659 stalls, and a total square foot area of 275,852 (on 4 levels plus a "basement"). Farnsworth said they would assume that this cost would have to be adjusted upward by approximately 3% per year (compounded).

<u>BPL Contribution</u>	
Capital Fund Balance As of 6/5/17	\$2,420,569.85
Approximate Monthly Interest	\$1,500.00
Fixed Asset Fund Balance As of 6/5/17	\$928,888.68
Estimated Capacity for Donations, Grants, Additional Reserves	\$2,000,000.00
Total:	\$5,350,958.53

	Square Footage	Percentage of the building
Renovation	57,000	57.58%
Addition	42,000	42.42%
Full New	99,000	100.00%



To: Amelia Buragas, Downtown Task Force Chair
From: Tom Dabareiner AICP, Community Development Director
Date: October 20, 2017
Subject: Review of DTF Recommendations

A number of people have asked for my opinion regarding the draft proposals under consideration by the Downtown Task Force (DTF). Also, I have had a chance to review the draft final report from the DTF.

At an earlier meeting of the DTF, I presented three categories of improvements. I will use those categories to organize my review. It is worth stating that the vast majority of DTF recommendations can find clear support in the City's Comprehensive Plan—exactly how the Plan should be used—and my professional role therefore leans heavily towards support, coupled with 35 years of experience.

Catalyst Projects

A catalyst project should be substantial enough to generate a respectable number of new users in the downtown. All three projects identified in the DTF draft Final Report as Catalyst Projects fit easily within the Catalyst Projects category and within the City of Bloomington Comprehensive Plan 2035.

The redevelopment of the *Market Street Parking Deck* as some kind of multi-use facility could become a significant catalyst. As a library / community center, it could generate more than 1,000 users per day. The City's financial participation in downtown redevelopment projects is likely expected *and* is also needed for the library—why not achieve both in a downtown library location? Importantly, the concept has specific support in the Comprehensive Plan. I also participated in the planning of a downtown many years ago which included adding a public library as an anchor, so am aware of and endorse the benefits of downtown libraries. Expansion of the library on its existing site does little, if anything, to boost the downtown and in some redevelopment scenarios could compete against the downtown. The distance and obstacles (e.g., crossing East Street, and walking passed a jail, parking deck, a parking lot and abandoned building, and bland government center) will deter pedestrians from visiting the library and the downtown.

A new office headquarters or apartment/condo unit complex in and adjacent to the downtown both fit the catalyst typology. With regard to new housing, eventual growth generating about 2,000 new residents (not all at once, which would have a negative market impact) was one example given. One could argue that any set of activities that daily contribute 2,000 potential downtown users should become a target for the DTF. This is not to say all 2,000 would visit businesses in the downtown on a daily basis, but instead would provide an adequate base from which to draw frequent visitors (in addition to others already visiting the downtown).

Both a new hotel / convention center at the Front and Center location and the proposal to establish multi-use development in and around the downtown are classic catalyst examples. It is important to acknowledge that a hotel / convention center needs regular use and consistently high occupancies to

contribute as a true catalyst. New residential, once occupied, provides a consistent base and should be encouraged. Both concepts are rooted in the Comprehensive Plan.

Placemaking

Façade improvements, streetscapes, public art and special events fall into this broad category. Much work in the past has been focused here and is also proposed by the DTF. These are largely design-oriented and make a location an attractive and more interesting place to visit. While some may attract more people to the downtown, the numbers are lower and less consistent than brought about with a catalyst project.

Shade trees, natural plantings, self-watering planters, painted/brick/stamped crosswalks, art and decorative lighting are part of the DTF draft proposal. S-4 zoning designation for historical structures can add to the list of attractions in a downtown. Keeping the downtown clean and installing decorative lighting also join the list, as well as events like First Fridays and the farmers market. Creating “shared space” by making street ROWs available for pedestrian and bicycle usage also fits this category, although if done right it can become an attraction generating new visitors for the downtown.

Some have mentioned the catalyst potential of the BCPA and the Arena, but they are more akin to *special events* based on event infrequency. Thus, they belong in the Placemaking category in my view.

Supportive

I would place sidewalks, parking and other infrastructure in the Supportive category. Well-managed systems are certainly essential to a successful downtown; however, they are necessary only because they serve the users of the downtown.

Ordinances to support first-floor retail may be unnecessary, as the marketplace would prefer this location too. However, when combined with true building design requirements or incentives, this may functionally move the topic into the Placemaking category.

Pc: Melissa Hon
Steve Rasmussen

To: Alderman Amelia Burgess, Downtown Task Force Committee Chair
From: Katie Simpson, City Planner
Date: Wednesday, October 18, 2017
Subject: Commentary on the Draft Final Recommendations Report

On Tuesday, October 17, 2017 the Downtown Task Force met to discuss a draft of the final report. The Task Force solicited additional commentary on the draft document. Below are my recommended edits/points of clarification.

Section 1: Beautification/Public Art

- Under the "Planning Document References" section, supporting material could be added from The Streetscape Master Plan. While never officially adopted by Council, the document also recognizes the need for Murals, Public Art and Street Trees (pg. 27-28) see section 6.2 "Opportunities" for supporting documentation .
- Under the "Recommendations" Section:
 - a). Expand the first recommendation to incorporate additional opportunities for incorporating rain gardens, biosoils, and other natural storm water treatment landscaping into the Downtown Streetscape. The Streetscape Plan calls for improving bump outs; bump outs may require additional storm inlets, but may also be an additional opportunity to improve the landscaping by adding rain gardens. Public Works, Parks, and Planning should coordinate on this if incorporated into the recommendations.
 - b). Expanding on Recommendation 4, the Streetscape Plan guides the installation of conduit and new service feeds. As the plan is implemented, the city should look for additional opportunities to add electrical outlets to tree wells and other areas that may lend themselves to future lighting installations. Additionally, this poses an opportunity to identify new locations for tree wells.
 - c). Consider adding an additional recommendation that encourages improved landscaping on private parking lots. The Comprehensive Plan identifies the need to screen and landscape parking lots in the Downtown. Perhaps there is an opportunity for the city to partner to improve landscaping and screening of existing surface lots, and to encourage owners to make small improvements by adding temporary planters or public art installations.

Section 2: Public Spaces/Walkability

Under "Recommendations" the Task Force may wish to consider adding an additional recommendation that the city look for pop-up opportunities before moving forward with the phased implementation of the Streetscape Plan. Resurfacing and implementing the Streetscape Plan, provides the city with an opportunity to carryout "pop-ups" and "pilot" programs, such as changes to parking orientation, temporary bump-outs, or parklet designations before making the actual improvements. Public Works, Parks, Planning, and the Downtown Development Division (DDD) should coordinate to capitalize on these opportunities.

Section 3: Public Parking

- Consider adding the following references to the “Planning Documents References” Section:
 - Goal D-5 Continue to develop a multi-modal transportation network in Downtown
 - D-51 Improve parking conditions, access, and encourage shared public and private parking spaces.
- Under the “Recommendations” section, the Task Force may wish to encourage shared parking of private lots with other businesses and residents, especially for businesses that have staggered hours. Some businesses are already renting lots to food trucks or shuttles, but there may be other opportunities.

Section 4: Catalyst Projects

Under “Additional Information” for the Market Street Garage, the Task Force may want to add that, although improvements, such as lighting and new gates, were installed or are proposed, these improvements can be reused in a new structure if/when the garage is torn down.

Under “Additional Information” for the Library, the Task Force may want to add that Planning Division never reviewed the proposal for expanding the Library in its existing location, which went to council earlier this year. Planning offers the following comments and identifies the following challenges associated with the Library Expansion proposal:

1). The Library site is difficult to access by car or walking. It is landlocked on the east side by US-51 and access is limited to the South by Oakland Ave and the Railroad Tracks. Business Highway 51/East Street creates a physical and visual barrier separating the Library (at its current location) from Downtown. Expanding at the existing location may be less effective for achieving downtown revitalization as well as improving walkability and access to public resources.

2). Option 1 shows the expansion of a library and the construction of a massive surface parking lot that stretches south to connect to the Constitution Trail and Railroad Tracks. Realizing Option 1 would require vacating E. Jackson Street between S. Prairie St. and East St. This disrupts the grid pattern and reduces connectivity in the area. Furthermore, it decreases access for the Public Works site west of the library, possibly limiting its future redevelopment potential.

2a). The Comprehensive Plan identifies Crime Prevention Through Environmental Design (CPTED) as a tool for improving the physical environment to enhance public safety. A large surface parking lot landlocked by a railroad track and Constitution Trail encourages a large volume of space with a low level of activity and contradicts the CPTED principals. Parking at this location should incorporate safe design and to encourage a more effective use of land. Nonetheless, the added surface parking would most likely increase the need for parking lot lighting and could negatively affect the surrounding property owners. The site development process should address these considerations/concerns.

3). Options 2 and 3 proposed to council also require vacating E. Jackson Street and create the same concerns as listed above. Additionally Options 2 and 3 incorporate retail into the redevelopment of the existing location. New retail at this library site competes with existing downtown businesses and revitalization efforts. The current zoning, S-2 Public Lands and Institutions, does not allow retail and would need to be amended. Staff is also concerned about the negative impacts new retail in the existing library location could have on the adjacent residential district.

4). The proposals should receive a more thorough review by the Public Works Department, Water Department, Fire Department, Parks Department, and Community Development Department for consistency with city codes and ordinances, comprehensive plans, circulation, and to ensure sewer and water are adequately sized at this location to accommodate the new development.