

**COUNCIL OF THE VILLAGE OF YELLOW SPRINGS
REGULAR COUNCIL MEETING
AGENDA**

IN COUNCIL CHAMBERS @ 6:00 P.M.

Monday, November 20, 2017

Comments from the Public are welcomed at two different times during the course of the meeting: (1) Comments on items not on the Agenda will be heard under Citizens Concerns, and (2) Comments on all items listed on the Agenda will be heard during Council's consideration of said item. A Sign-In sheet will be made available on the small table at the rear of the Council Chambers. Please write your name and the topic you wish to discuss.

CALL TO ORDER

ROLL CALL

EXECUTIVE SESSION (6:00)

For the Purpose of Discussion of Potential Litigation and of Real Estate Matters.

REGULAR SESSION (7:00)

ANNOUNCEMENTS

CONSENT AGENDA

1. Minutes of November 6, 2017 Regular Meeting

REVIEW OF AGENDA

I. PETITIONS/COMMUNICATIONS

The Clerk will receive and file:

Greene County Public Health Department re: Seat Belt Challenge
Rachel McKinley re: Star Ohio Fact Sheet
Judith Hempfling re: JSTF Documents

II. PUBLIC HEARINGS/LEGISLATION (7:20)

Second Reading and Public Hearing of Ordinance 2017-33 Repealing Section 1262.08

öSpecific Requirementsö of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting New Section 1262.08 öSpecific Requirementsö

Second Reading and Public Hearing of Ordinance 2017-41 Approving the 2018 Budget for the Village of Yellow Springs and Declaring an Emergency

Reading of Resolution 2017-49 Approving a Bid for Crew Quarters Construction

Reading of Resolution 2017-50 Declaring, November 25, 2017 öMayor Foubert Dayö in the Village of Yellow Springs

III. CITIZEN CONCERNS

IV. SPECIAL REPORTS (7:45)

V. OLD BUSINESS

Timeline for Boards and Commissions

VI. NEW BUSINESS (8:00)

Updating Nominating Petition Discussion

House Bill 179 Discussion re: Sanctuary Status and Implications

Leadership Training Outcomes

VII. MANAGER'S REPORT (8:30)

VIII. ASSISTANT VILLAGE MANAGER/FINANCE DIRECTOR'S REPORT

IX. CHIEF'S REPORT

X. CLERK'S REPORT

VI. BOARD AND COMMISSION REPORTS (9:00)

Report from Representatives:

Gerald Simms	Planning Commission (Hempfling)
Brian Housh	Economic Sustainability Commission (Wintrow)
Brian Housh	Community Access Panel (Simms) (on hiatus)
Brian Housh	Arts and Culture Commission (Wintrow)
Judith Hempfling	Energy Board (MacQueen)
Judith Hempfling	Library Commission (Simms) (Nominations)
Judith Hempfling	Justice System Task Force (MacQueen)
Marianne MacQueen	Village Mediation Program (Simms)
Marianne MacQueen	School Board Liaison (Simms)
Marianne MacQueen	Human Relations Commission (Housh)
Marianne MacQueen	Environmental Commission (Simms)
Marianne MacQueen	Beaver Management Task Force (Simms)
Karen Wintrow	Greene County Regional Planning Commission (Simms)
Karen Wintrow	Miami Valley Regional Planning Comm.
Karen Wintrow	Chamber of Commerce

VII. FUTURE AGENDA ITEMS (9:20)

Dec. 4:	Ordinance in Response to HB 49 Ordinance Amending UDRB Procedures Resolution Approving Employee Wage Increase for 2018 JSTF Report on Taser Policy Board and Commission Policy Discussion Lodging Tax Implementation Discussion Outreach Specialist Funding/Job Discussion Complete Streets Policy Executive Session @ 5:30pm
Dec. 18:	Fourth Quarter Supplemental Appropriations and Declaring an Emergency Emergency Ordinance Amending Fee Schedule for Transient Guest Lodging Permits Resolutions Honoring Outgoing Council Members Bowen Presentation re: Housing Needs Assessment Follow Up on Designated Smoking Areas/Signage Executive Session @ 5:30pm

ADJOURNMENT

The next regular meeting of the Council of the Village of Yellow Springs will be held at 5:30 p.m. on **Monday, December 4, 2017** in Council Chambers, John Bryan Community Center, 100 Dayton Street.

The Village of Yellow Springs is committed to providing reasonable accommodations for people with disabilities. The Council meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the Village Clerk of Council's Office at 767-9126 or via e-mail at clerk@yso.com for more information.

ORDINANCE NO. 2017-41

**APPROVING THE 2018 ANNUAL APPROPRIATIONS AND DECLARING AN EMERGENCY
VILLAGE OF YELLOW SPRINGS, OHIO**

WHERE AS, this ordinance is adopted to make appropriations for expenses and other expenditures of the Village of Yellow Springs, State of Ohio, during the fiscal year ending December 31, 2018,

NOW, THEREFORE, COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO, HEREBY ORDAINS THAT:

Section 1. To provide for expenses and other expenditures of the said Village of Yellow Springs during the fiscal year ending December 31, 2018, the following sums are hereby set aside and appropriated as follows:

Section 2. That there be appropriated from the **GENERAL FUND**:

	Council Total	\$ 280,800
	<i>Personal Services</i>	128,550
	Mayor Total	\$ 57,075
	<i>Personal Services</i>	43,850
	Administration Total	\$ 364,950
	<i>Personal Services</i>	190,600
	Auditor	\$ 30,600
	Rental Property	\$ 29,700
	Library	\$ 5,500
	Cable	\$ 26,550
	<i>Personal Services</i>	22,600
	Council Commissions	\$ 25,000
	Public Safety Total	\$ 1,441,602
	<i>Personal Services</i>	1,225,402
	Planning Total	\$ 92,808
	<i>Personal Services</i>	73,258
	Mediation	\$ 7,575
	Transfers	\$ 930,932
	TOTAL GENERAL FUND APPROPRIATIONS	\$ 3,293,092

Section 3. That there be appropriated from the following **SPECIAL REVENUE FUNDS**:

202	Street Maintenance & Repair Total	\$ 631,786
	<i>Streets</i>	631,786
	<i>Personal Services</i>	212,941
204	Parks and Recreation Fund Total	\$ 405,750
	Parks Total	53,875
	<i>Personal Services</i>	21,150
	Pool Total	110,750
	<i>Personal Services</i>	74,000
	Bryan Center Total	234,625
	<i>Personal Services</i>	115,725
	Bryan Youth Center Total	6,500
210	Mayor's Court Computer Fund	\$ 2,000
213	Coat & Supply Fund	\$ 3,000
216	State Law Enforcement Trust Fund	\$ 10,000
903	Police Pension Fund Total	\$ 115,450
	<i>Personal Services</i>	115,000
	TOTAL SPECIAL REVENUE FUND APPROPRIATIONS	\$ 1,167,986

Section 4. That there be appropriated from the **CAPITAL PROJECT FUNDS**:

302	Cable Capital Improvement Fund	\$	26,000
304	Sewer Capital Improvement Fund	\$	48,000
305	Electric Capital Improvement Fund	\$	111,500
307	Facilities Capital Improvement Fund	\$	31,200
308	Capital Equipment Fund	\$	23,000
TOTAL CAPITAL PROJECT FUND APPROPRIATIONS			\$ 239,700

Section 5. That there be appropriated from the **ENTERPRISE FUNDS**:

601	Electric Fund Total	\$	3,674,723
	<i>Personal Services</i>		<i>472,180</i>
610	Water Fund Total	\$	952,386
	Water Distribution Total		481,944
	<i>Personal Services</i>		<i>272,347</i>
	Water Treatment Total		470,442
	<i>Personal Services</i>		<i>142,906</i>
620	Sewer Fund Total	\$	945,379
	Sewer Collection		408,175
	<i>Personal Services</i>		<i>236,855</i>
	Sewer Treatment		537,203
	<i>Personal Services</i>		<i>148,156</i>
630	Solid Waste Fund	\$	270,300
TOTAL ENTERPRISE FUND APPROPRIATIONS			\$ 5,842,788

Section 6. That the appropriation from the Total Fund Budget is as follows:

GRAND TOTAL APPROPRIATIONS ALL FUNDS	\$	10,543,566
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Section 7. The Finance Director and the Village Manager are hereby authorized to draw warrants on the Village Treasury for payments from any of the foregoing appropriations upon receiving proper certificates and vouchers therefore, approved by an ordinance of Council to make the expenditures; provided that no warrants shall be drawn or paid for salaries or wages except to persons employed by authority of and in accordance with such ordinance.

Section 8. This ordinance is hereby declared to be an emergency measure immediately necessary to preserve the public interest and for the health, safety and welfare of the citizens of the Village, wherefore, this ordinance shall be in effect immediately upon its adoption by Council.

Karen Wintrow, President

Passed:

Attest:

Judy Kintner, Clerk of Council

ROLL CALL:

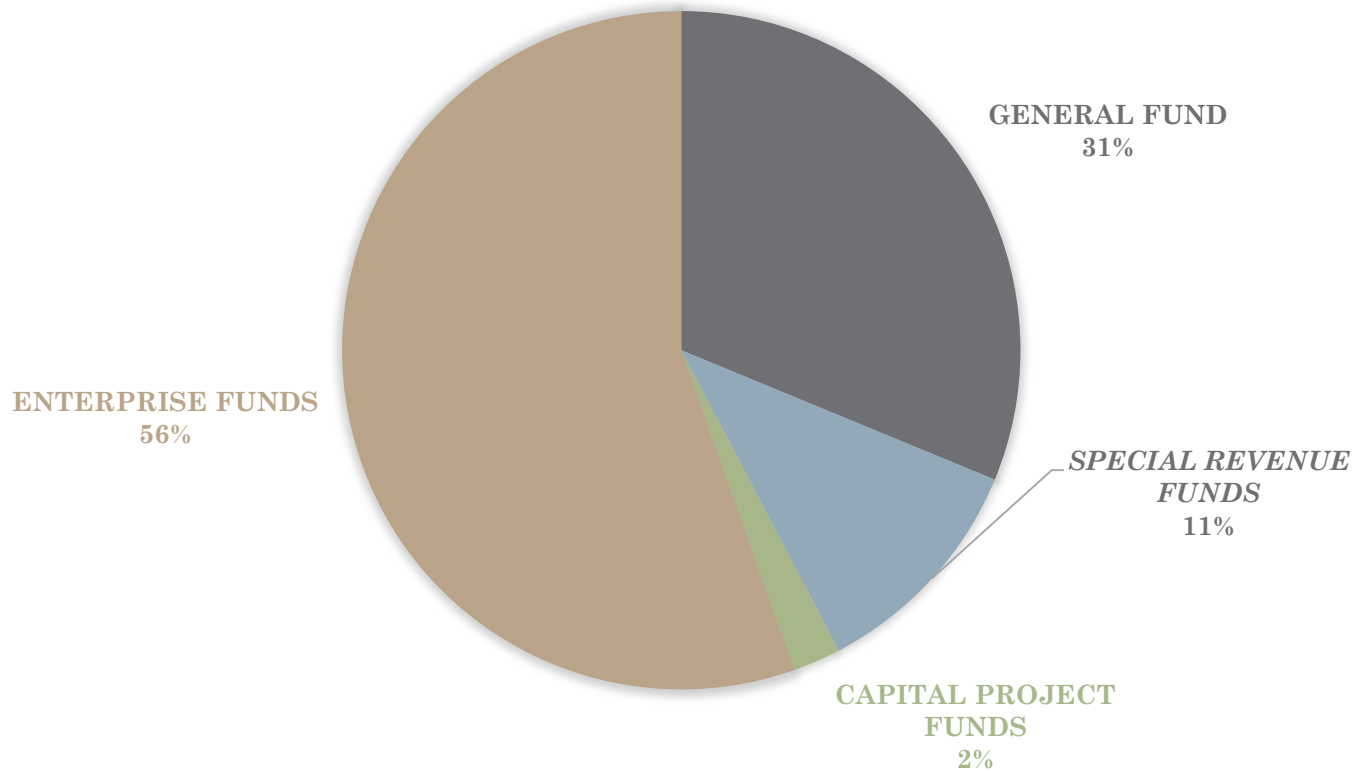
Karen Wintrow
Brian Housh
Gerald Simms
Marianne MacQueen
Judith Hempfling

2018 BUDGET

The Village of Yellow Springs

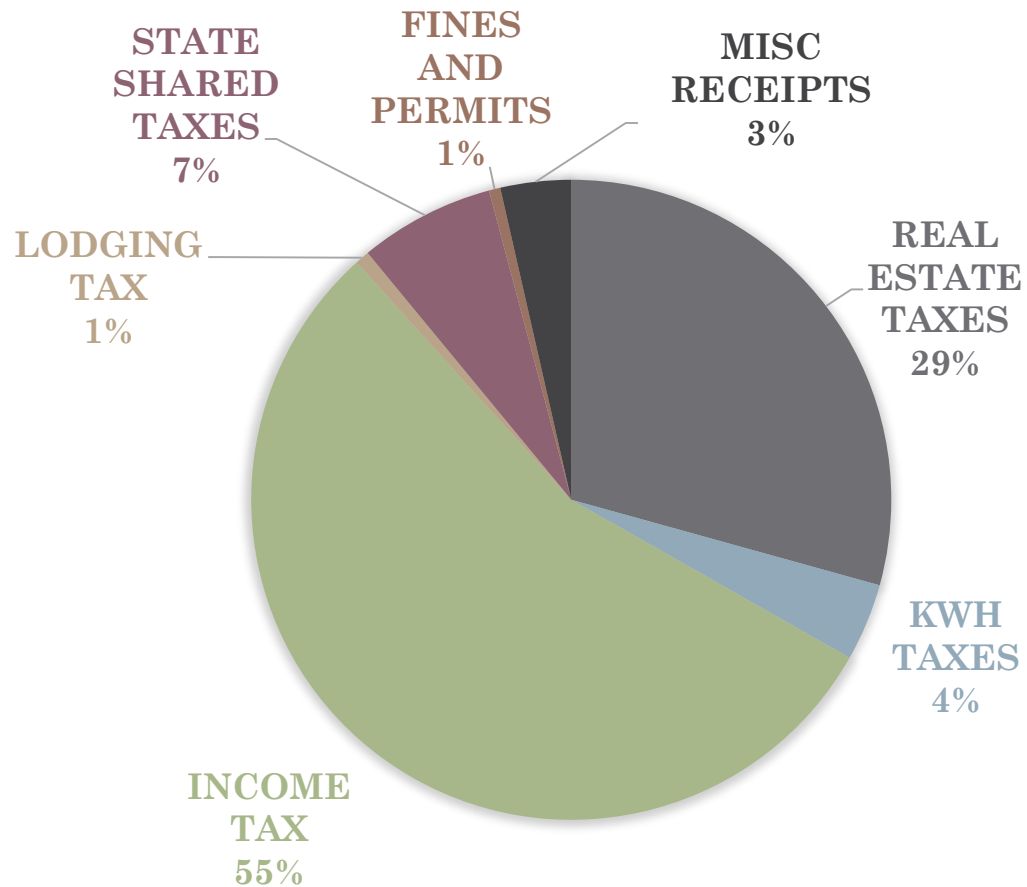
Prepared by Melissa Dodd

Village of Yellow Springs 2018 Budget



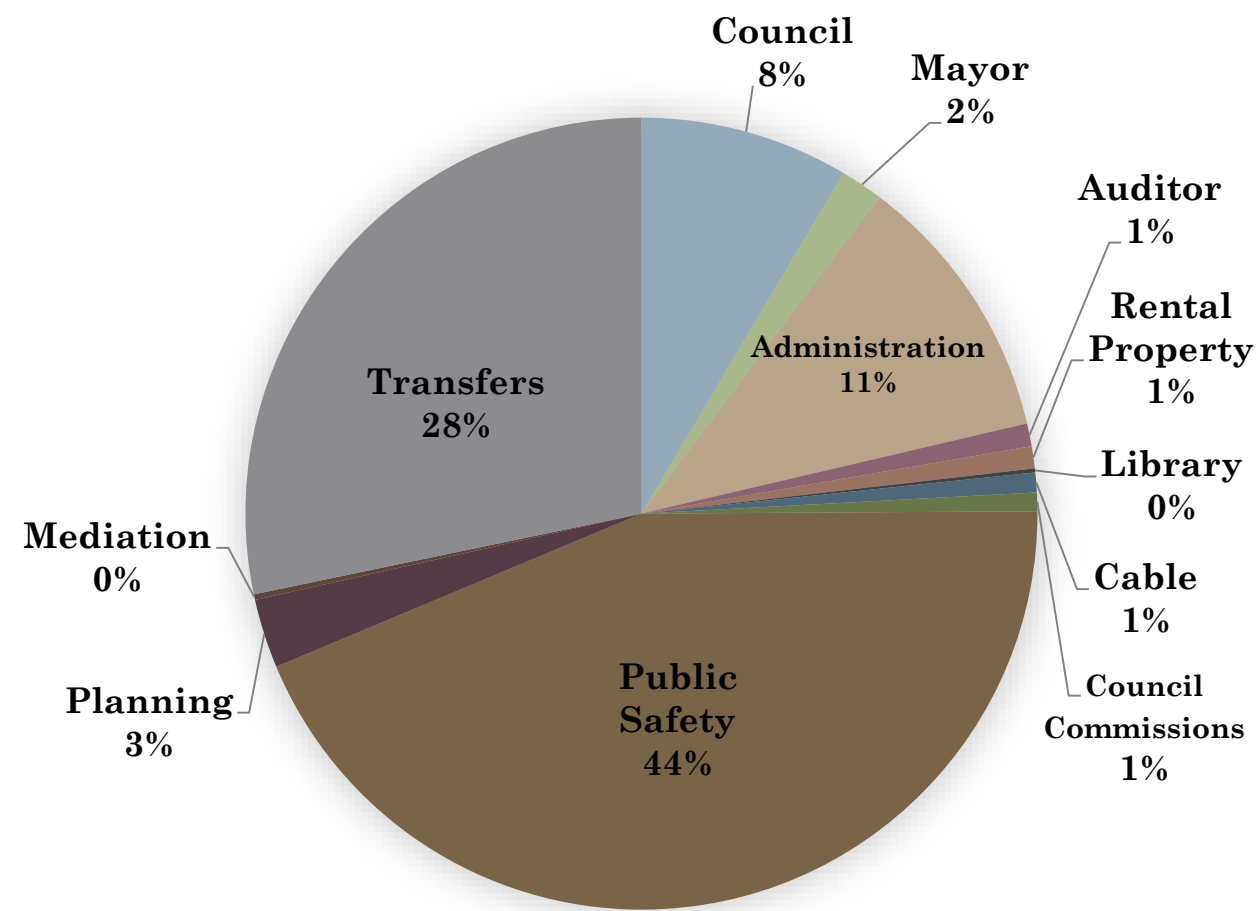
GENERAL FUND	\$ 3,293,092
SPECIAL REVENUE FUNDS	\$ 1,167,986
CAPITAL PROJECT FUNDS	\$ 239,700
ENTERPRISE FUNDS	\$ 5,842,788
TOTAL	\$ 10,543,566

General Fund Revenues



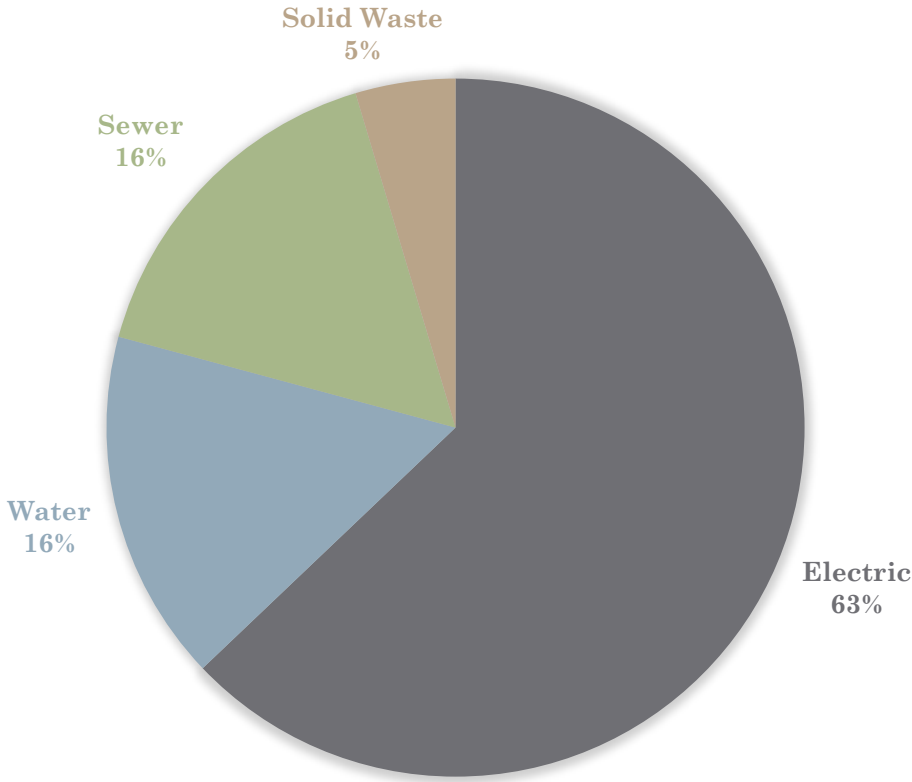
GENERAL FUND REVENUES	
REAL ESTATE TAXES	\$ 1,011,000
KWH TAXES	\$ 135,000
INCOME TAX	\$ 1,900,000
LODGING TAX	\$ 25,000
STATE SHARED TAXES	\$ 235,815
FINES AND PERMITS	\$ 19,850
MISC RECEIPTS	\$ 123,050
TOTAL	\$ 3,449,715

General Fund Expenses



GENERAL FUND EXPENSES	
Council	\$ 280,800
Mayor	\$ 57,075
Administration	\$ 364,950
Auditor	\$ 30,600
Rental Property	\$ 29,700
Library	\$ 5,500
Cable	\$ 26,550
Council Commissions	\$ 25,000
Public Safety	\$ 1,441,602
Planning	\$ 92,808
Mediation	\$ 7,575
Transfers	\$ 930,932
Total	\$ 3,293,092

Enterprise Fund Expenses



Electric	\$ 3,674,723
Water	\$ 952,386
Sewer	\$ 945,379
Solid Waste	\$ 270,300
TOTAL	\$ 5,842,788

**VILLAGE OF YELLOW SPRINGS, OHIO
ORDINANCE 2017-33**

REPEALING SECTION 1258.01 “DISTRICT USES” AND SECTION 1262.08 “SPECIFIC REQUIREMENTS” OF THE CODIFIED ORDINANCES OF THE VILLAGE OF YELLOW SPRINGS, OHIO AND ENACTING NEW SECTION 1258.01 “DISTRICT USES” AND NEW SECTION 1262.08 “SPECIFIC REQUIREMENTS”

Whereas, Codified Ordinance Section 1258.01 of the Village of Yellow Springs, Ohio summarizes the uses allowed in the respective zoning districts and Codified Ordinance Section 1262.08 of the Village of Yellow Springs, Ohio provides for additional requirements that may be applicable to specific conditional uses; and

Whereas, Village Council has determined that it would be in the best interest of the Village to adopt a new Section 1258.01 entitled “District Uses” of the Codified Ordinances of the Village of Yellow Springs, Ohio to update the uses in various districts and to adopt a new Section 1262.08 entitled “Specific Requirements” of the Codified Ordinances of the Village of Yellow Springs, Ohio to remove the requirements for short-term rentals.

NOW, THEREFORE, COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO HEREBY ORDAINS THAT:

Section 1. Section 1258.01 entitled “District Uses” and Section 1262.08 entitled “Specific Requirements” of the Codified Ordinances of the Village of Yellow Springs, Ohio be repealed.

Section 2. A new Section 1258.01 entitled “District Uses” and a new Section 1262.08 entitled “Specific Requirements” of the Codified Ordinances of the Village of Yellow Springs, Ohio be enacted to read as set forth on Exhibit A with new language underlined and **bolded** and deleted language in ~~strike through~~, which is attached hereto and incorporated herein.

Section 3. This ordinance shall take effect and be in full force at the earliest date permitted by law.

Karen Wintrow, President of Council

Passed:

Attest: _____
Judy Kintner, Clerk of Council

ROLL CALL

ROLL CALL

Karen Wintrow _____ Brian Housh _____ Gerald Simms _____
Marianne MacQueen _____ Judith Hempfling _____

Exhibit A

1258.01 DISTRICT USES.

The following table summarizes the uses allowed within the respective zoning districts, either as permitted or conditional uses.

Table 1258.01 Schedule of Uses by District										
Use	C	E-I	R-A	R-B	R-C	B-1	B-2	I-1	I-2	Specific Conditions
Accessory Uses										
Accessory buildings, structures and uses *Pools and spas are not allowed in District C and I-2	P	P	P	P	P	P	P	P	P	1260.04
Accessory dwelling unit			C	C	C					1262.08(e)(1)
Cafeteria facilities located within a principal use		P						P	P	
Caretaker residence		P						C	C	
Child care facilities located within a principal use		P						C	C	
Corporate offices incidental to the principal use								P	P	
Day care - Family			P	P	P					
Day care - Group		C	C	C	C					
Home occupations ¹		C	C	C	C	C				See footnote 1
Outdoor patio seating in conjunction with a permitted restaurant		P				C	C	C	C	
Outdoor storage related to a principal use		C						C	C	
Retail incidental to the manufacture or production of goods on the premises, not exceeding 30% of the total floor area of the principal building								C	C	
Vehicle wash facilities for								P	P	

trucks and trailers										
Agricultural and Animal-Related Uses										
Agribusiness		C						C	P	
Breweries, distilleries and bottling plants								P	C	
Community gardens	P	P	P	P	P					
Farm, including raising animals		C	C	C	C			C	C	
Food processing plants		C						C	P	
Greenhouse/nursery (not including retail sales)		P						C	P	
Kennels								C		
Produce and other food products terminals								C	P	
Riding stables	C	C								
Veterinary clinics					C		C			
Commercial Services										
Business machine sales & service							P	P		
Cleaning services							P	P		
Electric, plumbing supplies sales & service						P	P	P		
Glass sales & service							P	P		
HVAC sales & service							P	P		
Locksmith shops							P	P		
Machinery and equipment sales & service							P	P	P	
Mail order businesses and fulfillment centers							P	P	P	
Pest control services							P	P		
Petroleum products sales							C	P		
Printing, photocopying and publishing services		P				P	P	P	P	
Repair shops (non-automotive)							P	P		

Tool and equipment rental							P	P		
Construction										
Building material and lumber supply, including lumber yards								C	P	
Contractors' offices and shops (not including outdoor storage)								P	P	
Landscaping services								C	P	
Educational										
Administrative offices		P								
Auditorium buildings		P								
Classroom buildings		P								
Commercial schools and studios including art, dance, martial arts, and music		P				P	C	C		
Schools (elementary, middle, high)			C	C	C					1262.08(c)(2)
Trade schools								P	P	
Training centers, engineering or sales								P	P	
Food, Drink, Entertainment and Hospitality										
Bars, taverns, clubs and restaurants serving alcoholic beverages		C				C	C	C		
Bed and breakfasts		C	C	C	C	C				1262.08(e)(2)
Brew pubs and similar establishments		C				C	C	C		
Farmers market		P				C	C	C		
Hotels and motels		C				C	C			
Internet sweepstakes café							C			
Mobile vending (food trucks)		C				C		C	C	
Restaurants, excluding drive-in or drive-thru facilities		C				P	P	C		
Sexually oriented businesses								P		1262.08(d)(3)
Health Care and Social Assistance										

Hospitals							C			
Medical and dental laboratories							C	C	C	
Medical and dental offices and clinics		C				C	P			
Manufacturing										
Building material manufacturing including milling, planning and joining								C	C	
Chemical manufacturing and storage								C	C	<u>1262.08(b)(1)</u>
Machine, sheet metal and welding shops								C	C	
Manufacturing, compounding, processing, packaging, treating or assembly from previously prepared materials								P	C	
Metal stamping, pressing and buffing								C	C	
Paint, rust proofing and rust coating								C	C	
Tool and die shops								C	C	
Offices and Financial Services										
Banks, credit unions and similar financial institutions, excluding drive in and drive-thru facilities		P				P	P			
Offices for executive, administrative, professional, real estate, accounting and similar professional activities		P		C	C	P	P	P		
Personal Services										
Day care, nursery schools and child care establishments		P				P	P			
Health and fitness clubs		P				P	P			
Personal service establishments such as barber and beauty shops, tailors, photo studios,						P	P			

shoe repair and watch repair										
Tattoo parlor						P	-			
Public/Quasi-Public										
Cemeteries (green burial method only)	C									
Churches and customary related uses		P	C	C	C	C	P			<u>1262.08(c)(1)</u>
Government offices, buildings and facilities	P	P	C	C	C	P	P	P	P	
Libraries		P			C	C				
Recreation and Leisure										
Art galleries, museums and similar cultural facilities		P				P				
Assembly and performance halls		P				C				
Ball fields		C								
Community centers and senior centers		P				P				
Cultural buildings		P			C	C				
Field house		C								
Forest and wildlife preserves	P	P								
Golf courses and country clubs		C								
Indoor commercial recreation such as theaters, bowling lanes and skating rinks		C				C	C			
Interpretive centers	P	P								
Natatorium		P								
Outdoor commercial recreation such as mini-golf and batting cages							C			<u>1262.08(d)(1)</u>
Public parks/playgrounds/recreation areas	C	P	C	C	C					
Stadium		C								

Swimming pools and spas		P	P	P	P	P	P	P		
Research and Technical Facilities										
Research, development and testing laboratories and facilities		P						P	P	
Residential										
Boarding homes					C					<u>1262.08(e)(3)</u>
Continuing care retirement community		C		C	C					
Dormitories		P								
Dwellings, attached single-family		C		P	P					
Dwellings, multiple-family		C		C	P					
Dwellings, single-family detached		C	P	P	P	P				
Dwellings, two-family		C		P	P					
Dwelling units on the upper floors of buildings with nonresidential uses at street level						C				<u>1262.08(e)(4)</u>
<u>Pocket neighborhood developments</u>			<u>C</u>	<u>C</u>	<u>C</u>					<u>1262.08(e)(6)</u>
<u>Short-term rental units</u> <u>Transient Guest Lodging</u>		<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>			<u>1262.08(e)(7)</u>
Retail										
Artisan shops, such as glass blowers, metal sculptures, wood carvers and weavers producing their goods and selling them for retail on premises						C	P	C		
Bicycle sales, rental and repair						P		C		
Building supply and equipment sales, not including lumber yards							C			
General retail catering to the		C				P	P			

needs of the community, but less than 10,000 square feet of UFA										
General retail of 10,000 square feet UFA or more						C	P			<u>1262.08(a)(3)</u>
Outdoor market or covered bazaar		P								
Showrooms for home improvements, decorating and similar items, not including outdoor storage						P	P			
Transportation and Warehousing										
Bottled gas storage and distribution								C	C	
Cartage, express and parcel delivery facilities								C	C	<u>1262.08(f)(1)</u>
Heliports and helipads		C						C	C	
Mini-warehouse, self-storage facilities								C		<u>1262.08(f)(2)</u>
Storage of hazardous materials		C							C	<u>1262.08(b)(1)</u>
Warehouses and distribution centers								C	P	<u>1262.08(f)(1)</u>
Wholesale businesses								C	P	
Utilities										
Public utility buildings								P	P	
Solar facilities (nonresidential)		C						P	P	
Telephone exchange buildings								P	P	
Utility and public service buildings, not including outdoor storage							P			
Utility substations								P	P	
Wind energy conversion systems(single accessory)		C						C	C	
Wind energy conversion systems (commercial)		C								

Wireless communication facilities and towers	C	C						C	C	<u>1262.08(g)(1)</u>
Vehicle Sales, Service and Related										
Drive-in and drive-thru facility for banks, pharmacies, restaurants and dry cleaners						C	C			<u>1262.08(a)(1)</u> and <u>1262.08(d)(2)</u>
Sales of new and used vehicles, boats, farm implements and similar vehicles and equipment							C			<u>1262.08(h)(1)</u>
Sale of vehicle parts, not including installation/repair							P			
Truck and heavy equipment repair									C	
Truck and trailer rental							C	C		
Vehicle and equipment rental							C	C		
Vehicle repair, major							C	C		<u>1262.08(h)(2)</u>
Vehicle repair, minor							C	C		<u>1262.08(h)(3)</u>
Vehicle service stations							C	C		<u>1262.08(h)(4)</u>
Vehicle wash facilities							C	C		<u>1262.08(h)(5)</u>
Waste Processing and Disposal										
Recycling collection and/or processing facility (non-hazardous)		C							C	
Other										
Mortuaries and funeral homes						C	C			<u>1262.08(a)(2)</u>
Outdoor market or covered bazaar		P								
Radio, television and recording studios		P				C	P	P	P	
Uses similar to other uses permitted in this district and consistent with the purpose of the district, as determined in accordance with Section <u>1242.06</u>	C	C	C	C	C	C	C	C	C	<u>1242.06</u>
1 Home occupations are permitted in all Residential Districts and the E-I and B-1 Districts,										

subject to issuance of a permit by the Zoning Administrator to verify compliance with the conditions of Section 1262.08(e)(5).

Exhibit A

1262.08 SPECIFIC REQUIREMENTS.

In addition to the general standards of Section 1262.03 applicable to all conditional uses, additional requirements may be applicable to specific conditional uses and shall be satisfied in order to obtain approval. Conditional uses for which added requirements apply are:

(a) Commercial.

(1) Drive-through businesses, excluding restaurants.

A. The drive-up or drive-through facility must be attached to a building, except that an automated teller machine may be in a stand-alone structure with a canopy or similar roof to protect users from the elements.

B. The facility shall be screened from any adjacent residential district or use and lighting shall be limited and fully shielded to prevent glare and light trespass.

C. Drive-through and stacking lanes and parking lot access shall be clearly identified and delineated.

D. A drive-through shall have an escape lane to allow a vehicle to pass those waiting to be served.

E. All drive-through service windows shall be located on the side or rear of the building to minimize visibility from any abutting street.

F. Amplified speakers and sound equipment shall be located at least 50 feet from any adjoining residential property. Additional landscaping and fencing shall be installed between such equipment and the adjoining residential property to minimize associated noise impacts.

G. At least three stacking spaces shall be provided per each drive-through lane.

(2) Mortuaries and funeral homes.

A. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.

B. Minimum lot area shall be one acre and minimum lot width shall be 150 feet.

C. An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.

D. Access driveways shall be located no less than 100 feet from the centerline of the intersection of any street or other driveway.

(3) Retail of 10,000 square feet or more.

A. The building and site design shall be compatible with and complementary to the established character of the district with respect to scale, height, bulk, setbacks, building materials and pedestrian and bicycle transportation amenities.

B. Off-street parking areas shall be designed to minimize their visibility and obtrusiveness from the adjacent street(s).

C. No new driveways or other means of vehicular access shall be permitted on Xenia Avenue between Limestone and Corry Streets.

(b) Industrial.

(1) Chemical manufacturing and storage.

A. As part of the conditional use application, the applicant shall provide documentation, reports, studies and other materials required by the Village specifying the materials to be handled, safety measures, existing soil conditions, methods of protecting ground water and all other information required by the Village in the course of reviewing the proposed use and its location.

B. The facility shall at all times operate according to all applicable local, Greene County, State of Ohio and Federal regulations.

C. Adequate safety measures shall be implemented and in use at all times.

D. There shall be no storage of hazardous materials outdoors, except in tanks or containers designed for that purpose that are inaccessible to anyone not authorized to process or handle such materials, and that meet all applicable safety regulations.

E. The applicant shall provide a disaster mitigation plan and fire pre-plan, approved by the appropriate authorities, as part of the application for a conditional use.

F. Truck routes to and from the facility shall be subject to approval.

(c) Public/Quasi-Public.

(1) Churches, places of worship, schools (elementary, middle and high).

A. The use shall have frontage on and direct access to an arterial or collector street. Secondary access to a local street may be permitted if the applicant provides evidence satisfactory to the Planning Commission that the added traffic will not have a negative impact on the surrounding neighborhood.

B. All outdoor activity, parking areas and recreational space shall be screened from adjacent property in any residential district.

C. Exterior lighting shall be 90-degree style cut-off fixtures, directed away from adjacent property and the public right-of-way.

D. Parking areas shall not be located within the required front setback area and the building setback shall be consistent with the established average setback of adjacent properties, as provided in Section [1260.02\(a\)](#).

(d) Recreation/Food/Entertainment.

(1) Mobile vending (food trucks).

A. Food trucks may be permitted to operate within the B-1, E-I, I-1 and I-2 zoning districts.

B. The food truck shall be located only within an approved off-street parking lot; provided, the food truck shall not displace any required parking spaces.

C. The food truck shall not be located closer than ten feet to any driveway.

D. Outdoor seating may be permitted; provided, written permission is obtained from the property owner and the seating area does not displace any required parking spaces.

E. Amplified sound and free-standing signs shall not be permitted.

F. The food truck shall be stationary at all times when open for business.

G. The owner or an employee shall be present within the vehicle at all times while open for business.

H. Access to restroom facilities must be available.

I. The owner or operator of the food truck shall provide trash receptacles, other than public receptacles.

J. All equipment, other than outdoor seating, shall be inside, attached to or within three feet of the food truck.

K. Evidence of Greene County health department approval shall be provided.

L. Disposal of wastewater shall be into the sanitary sewer system. The use of storm drains or any other form of discharge is prohibited.

M. The conditional use approval shall be reviewed annually by the Village Manager to ensure compliance with all standards of this section and any other conditions that may have been imposed upon the original approval.

(2) Internet sweepstakes café.

A. A license shall be obtained in accordance with Village Ordinance 2011-12.

B. An internet sweepstakes café shall be located no closer than 500 feet from any school, church, public park, library or other internet sweepstakes café, as measured from nearest property line to nearest property line.

C. Hours of operation shall be limited to 9:00 a.m. to 11:00 p.m., Monday through Saturday.

(3) Outdoor commercial recreation.

A. The front, side and rear yard minimum setbacks shall be 50 feet for all buildings and outdoor components of the recreational facility.

B. The parking setback shall be 20 feet from lot lines in the front, side and rear yards in nonresidential zoning districts and 50 feet from lot lines in residential districts.

C. Building design and materials shall be compatible with the existing or intended character of the surrounding area.

D. An operations plan describing the nature of the use, hours of operation, etc. shall be provided.

E. The Planning Commission may also establish conditions to minimize negative impacts on nearby uses and traffic operations along public streets, such as, but not limited to hours of operation, noise buffering and location of waste receptacles.

(4) Restaurants, drive-through.

A. Sufficient vehicular stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of eight stacking spaces for each service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation, parking spaces and egress from the property by vehicles not using the drive-through portion of the facility.

B. A minimum of two parking spaces shall be provided in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.

C. Public access to the site shall be located at least 100 feet from any intersection or other driveway on the same side of the street, as measured from the nearest right-of-way line to the nearest edge of the access.

D. Internal circulation and access to egress from the site shall not substantially impair the movement of other modes of transportation, such as bicycles and pedestrians, to and through the site.

E. Amplified speakers and sound equipment shall be located at least 50 feet from any adjoining residential property. Additional landscaping and fencing shall be installed between such equipment and the adjoining residential property to minimize associated noise impacts. Noise levels must comply with the Village noise ordinance ([Chapter 634](#)).

(5) Sexually oriented business.

A. Intent. In the development and execution of these zoning regulations, it is recognized that some uses, because of their very nature, may have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances,

thereby causing a deleterious effect upon the adjacent areas. The proximity of sexually oriented businesses to certain uses considered particularly susceptible to the negative impacts of the concentration of sexually oriented uses tends to erode the quality of life, adversely affect property values, disrupt business investment, encourage residents and businesses to move or avoid the community, increase crime, and contribute to a blighting effect on the surrounding area. There is convincing documented evidence of the deleterious effect that sexually oriented businesses have on both existing businesses around them and the surrounding residential areas to which they may be adjacent. Therefore, the following intents are served by these regulations:

1. This subsection describes the uses regulated and the specific standards necessary to ensure that the adverse effects of these uses will not contribute to the deterioration of the surrounding neighborhood, to prevent undesirable concentration of these uses, and to require sufficient spacing from uses considered most susceptible to negative impacts.

2. These provisions are not intended, nor shall they have the effect of, imposing a limitation or restriction on the content of any communicative materials including, but not limited to, sexually oriented materials that are protected by the First Amendment to the United States Constitution.

3. Additionally, it is not the intent of the provisions of this section, nor shall it have the effect of, restricting or denying access by adults to sexually oriented materials that are protected by said Federal and State constitutions.

4. Further, it is not the intent of these provisions, nor shall they have the effect of, denying access by the distributors and exhibitors of sexually oriented entertainment to their target market.

5. These regulations shall not be interpreted as intending to legitimize any activities that are prohibited by Federal or State law, or by any other code of the Village.

B. Uses regulated. The following uses are regulated by this subsection and defined for purposes of regulating sexually oriented businesses:

1. Adult arcade.
2. Adult book store.
3. Adult cabaret, club, bar or lounge.
4. Adult motel.
5. Adult motion picture theater.

C. Regulations.

1. No sexually oriented business shall be permitted in a location in which any principal building or accessory structure, including signs, is within 1,320 feet of any principal building or accessory structure of another sexually oriented business.

2. No sexually oriented business shall be established on a parcel within 500 feet of any parcel in a residential district or any parcel used for a single-family, two-family or multiple-family residence, public park, school, child care facility, church or similar place of worship, public library, Village office, police department or fire department, youth center, or commercially operated school attended by children such as, for example, dance schools, gymnastic centers, etc. The distance between a proposed sexually oriented business and any such zoned area or existing use shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of that zoned area or existing use.

3. Any sign or advertising for the sexually oriented business must comply with the provisions of this code. No sign or advertising may include photographs, silhouettes, or drawings

of any specified anatomical areas or specified sexual activities, or obscene representations of the human form and may not include animated or flashing illumination.

4. The entrances to the proposed sexually oriented business at both the exterior and interior walls, in a location visible to those entering and exiting the business, must be clearly marked with lettering at least two inches in height stating:

- a. "Persons under the age of 18 are not permitted to enter the premises;" and
- b. "No alcoholic beverages of any type are permitted within the premises."

5. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible by a person of normal visual acuity from the nearest adjoining roadway or a neighboring property.

6. Hours of operation shall be limited to 9:00 a.m. to 11:00 p.m., Monday through Saturday.

7. All off street and on-site parking areas shall comply with this code, based on the primary use (i.e., retail, assembly, etc.) and shall additionally be illuminated at all times.

8. Any booth, room or cubical available in any sexually oriented business that is used by patrons for the viewing of any entertainment shall:

- a. Be unobstructed by any door, lock or other entrance and exit control device;
- b. Have at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
- c. Be illuminated such that a person of normal visual acuity looking into the booth, room or cubical from its entrance adjoining the public lighted aisle can clearly determine the number of people within;
- d. Have no holes or openings in any side or rear wall not relating to utility, ventilation or temperature control services or otherwise required by any governmental code or authority.

D. Conditions of approval. Prior to granting approval for the establishment of any sexually oriented business, the Planning Commission may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operation of the sexually oriented business which is necessary for the protection of the public interest. Any evidence, bond, or other performance guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

E. Access to minors. No person operating a sexually oriented business shall permit any person under the age of 18 to be on the premises of the business as an employee, customer, or otherwise.

(e) Residential.

(1) Accessory dwelling units.

A. An accessory dwelling unit may be located within a principal single-family detached dwelling or a detached accessory building on the same lot as a principal dwelling.

B. The accessory dwelling unit shall share all public utilities (water/ sewer/electric) with the principal dwelling unit. Accessory dwelling units will not be separately metered.

C. A minimum of one off-street parking space shall be provided on the lot for the accessory dwelling unit in addition to the off-street parking spaces required for the principal dwelling unit.

D. The accessory dwelling unit shall be limited in size to a maximum of 50% of the total living area of the principal dwelling or 750 square feet, whichever is less.

E. The accessory dwelling shall contain a living area, one bath and a kitchenette (including a refrigerator, microwave oven, stove and sink) and may contain not more than one bedroom.

F. No more than two adults shall occupy the accessory dwelling unit.

G. No new access points or driveways shall be created or installed for access to the accessory dwelling unit.

(2) Bed and breakfasts.

A. A bed and breakfast shall not provide more than six guest rooms plus a common area for use by all guests.

B. A bed and breakfast establishment shall be located only in a detached single-family dwelling, designed and constructed for single family use, which shall contain at least 1,500 square feet of useable floor area. For each guest room in excess of two, an additional 100 square feet of floor area shall be required.

C. The bed and breakfast shall be the principal residence of the owner or manager, who shall reside there when the bed and breakfast is in operation.

D. Meals shall be limited to breakfast and evening snack, and shall be served only to guests of the facility and members and guests of the owner's family.

E. There shall be at least one off-street parking space provided for each guest room, in addition to the parking spaces required to serve the principal residence.

F. One sign, not exceeding four square feet, shall be allowed for identification purposes only and shall either be mounted on the front wall of the dwelling or placed within the front yard no closer than ten feet to the front lot line. Sign lighting shall be indirect and shielded from view off-site. Internally lighted signs are not permitted.

G. Cooking facilities shall not be permitted in bed and breakfast guest rooms.

H. Exterior refuse storage facilities shall be screened from view on all sides by a six-foot solid decorative fence, wall, vegetation or similar visual barrier.

I. In addition to the site plan required by this chapter, a floor plan of the dwelling unit and the use of each room shall be submitted with the conditional use application.

(3) Boarding houses.

A. The boarding house shall front on and have direct access to an arterial or collector street.

B. A maximum of ten guest rooms may be permitted.

C. Off-street parking shall be provided at a ratio of one space per guest room. The parking area shall be located in the rear yard and screened from adjoining properties.

D. One sign, not exceeding four square feet, shall be allowed for identification purposes only, and shall either be mounted on the front wall of the dwelling or placed within the front yard no closer than ten feet to the front lot line. Sign lighting shall be indirect and shielded from view off-site. Internally lighted signs are not permitted.

(4) Dwelling units on upper floors with nonresidential at street level.

A. Dwelling units shall not be located on the street level of a mixed use building.

B. Nonresidential uses, including storage, shall not be located on the same floor as a dwelling unit.

(5) Home occupation.

A. Permit. Application for a home occupation permit shall be made to the Zoning Administrator, together with payment of such fee as may be established by Village Council. The requirement for a permit shall be waived if all of the following conditions apply to the home

occupation: the proposed home occupation will not employ any persons other than residents of the dwelling; the home occupation is such that it will not generate customers, clients or visitors to the home; there will be no sign on the property identifying the home occupation and all other provisions of this section shall be met.

B. If the Zoning Administrator cannot determine if the home occupation conditional use requirements are met, in his or her sole discretion the Zoning Administrator may refer the matter to the Planning Commission for a conditional use hearing in accordance with the procedures of this chapter.

C. The use shall be conducted entirely within the dwelling, with the following exception(s):

1. The use may be conducted entirely within a garage or accessory building unattached to the dwelling in property zoned R-A or R-B as long as the use is not prohibited in a Planned Unit Development, recorded deed restrictions or other similar applicable recorded restrictions upon the parcel.

2. Any dwelling, garage or accessory building used in the home occupation shall comply with all other applicable Village ordinances and requirements and shall not be nonconforming with respect to lot, width and dimensional requirements.

D. The use shall be carried on only by the residents of the dwelling and not more than one other person.

E. The use of the dwelling for a home occupation must be clearly accessory, incidental and subordinate to the permitted principal residential use, and shall not utilize more than 20% of the usable floor area of the principal dwelling or its equivalent if conducted within an accessory building, or 250 square feet, whichever is less.

F. The appearance of the dwelling shall not be altered, nor shall the occupation within the dwelling be conducted in any manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting or the emission of sounds, vibrations or light that carry beyond the premises.

G. No outdoor storage, activities or displays shall be permitted.

H. No combustible, toxic or hazardous materials may be used or stored on the premises, except in a safe manner and in full compliance with all Federal, State and other governmental requirements concerning the use, handling, transport, storage and disposal of any such materials.

I. There shall be no activity that would interfere with radio or television transmission in the area, nor shall there be any offensive noise, vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line. The use shall not create a nuisance for the public and any surrounding property.

J. Traffic generated by the combined home and home occupation shall be compatible with traffic normally expected in a residential district. Vehicles used in the home occupation or making deliveries shall be no larger than utility vehicles commonly used for noncommercial purposes, i.e., pick-up trucks, vans, panel trucks and the like and parcel package delivery trucks.

K. The home occupation shall not entail more than eight client visits per day or 40 per week. The operator of the home occupation is responsible for maintaining a log of such visits.

L. Parking of motor vehicles shall be limited to one vehicle used for the home occupation per parcel. Parking generated by the conduct of the home occupation shall be provided for on the lot's driveway, which shall meet the minimum size requirements for off-street parking set forth in [Chapter 1264](#). Parking of motor vehicles generated by the home occupation are not allowed on the street or on any unpaved area of the lot.

M. In the event any of the above conditions or other conditions required by the Planning Commission are not met, the revocation process as set forth in Section [1262.06](#) shall take place.

(6) Pocket Neighborhood Developments (PNDs).

The following regulations apply to Pocket Neighborhood Developments (PNDs):

A. Location:

1. Pocket Neighborhood Developments may be considered in only the three residential districts; Residential A ó Low Density Residential District,
2. Residential B ó Moderate Density Residential District
3. Residential C ó High Density Residential District.

B. Density and Minimum Lot Area:

1. In Residential A, the permitted density shall be a maximum of 6 units per acre.
2. In Residential B, the permitted density shall be a maximum of 8 units per acre.
3. In Residential C, the permitted density shall be a maximum of 14 units per acre.
4. The minimum lot area for a PND is equal to the minimum lot requirements for the corresponding residential district.
5. On a lot to be used for a PND, the lot size maximum must be under five acres.
6. On a lot to be used for a PND, a minimum of 4 dwelling units around a common open space area are required.
7. On a lot to be used for a PND, an existing single-family dwelling or duplex structure, which may be nonconforming with respect to the standards of this section, shall be permitted to remain, but the extent of the nonconformity may not be increased, and the existing structure will factor into the maximum lot coverage permitted for that residential zoning district. An existing single-family dwelling or duplex structure will only count as one dwelling unit towards the minimum of 4 dwelling units as noted in section B.6. An existing accessory dwelling unit may be converted to an HOA storage building, HOA community room, or HOA guest housing.

C. Height Limit and Roof Pitch

1. The height limit permitted for structures in PNDs shall be a maximum of 35 feet for each dwelling unit, and rooflines must present a distinct profile and appearance and express the neighborhood character.

D. Lot Coverage

1. The maximum lot coverage permitted for principal dwelling units in PNDs shall be limited to that allowed in the corresponding residential zoning district. Because PNDs shall be located on one lot under the control of a Home Owners Association (HOA), the developer and/or the Greene County Engineer shall determine the lot area for each individual dwelling unit.

E. Yard Setbacks

1. Front and Rear Setbacks shall be equal to the setback requirements in the corresponding residential districts and will be measured from the perimeter property lot line. The front yard setback shall be measured by where the road frontage is and not the lot line of the land owned by each individual property owner within the PND. The side yard setback is a minimum of 10 feet between the eaves of each dwelling unit unless it is single-family attached dwelling units.

2. Frontage on a public street is not required for individual lots in a PND provided that the Planning Commission determines through the site review process that the development provides for adequate access to the lot via easements, shared driveways or other means.

F. Required Common Open Space

1. A minimum of 200 square feet of contiguous usable common open space is required per dwelling unit with no dimension less than 10 feet. At least 50 percent of the dwelling units shall abut the common open space, all of the dwelling units shall be within 60 feet walking distance to the common open space, and the common open space shall have dwelling units abutting at least two sides.

G. Parking

1. One and one-half spaces per dwelling unit shall be required.
2. Location:
 - a. Parking shall be on the PND property with a plan approved by the Planning Commission to ensure that parking is as unobtrusive as possible. The parking requirements and landscape requirements in the PND shall be limited to that allowed in the Yellow Springs Planning and Zoning codes. Parking areas are excluded from the calculations of common open space.

H. Lighting

1. Lighting fixtures shall be equipped with cutoff elements to direct light downwards and prevent light spill or trespass beyond the boundaries of the individual dwelling unit lot areas.

I. Utilities

1. A Utility Vault will be required where all meters can be located.

J. Other PND Standards:

1. PNDs are limited to detached single family dwelling units in R-A, Low Density Residential. In R-B, Moderate Density Residential and R-C, High Density Residential, up to 50 percent can be either two-family dwellings and/or single-family attached.
2. Privately-held accessory structures and accessory dwelling units are not allowed.
3. A PND shall be located on one lot with all common open space under the control of a Homeowner's Association (HOA). A draft of the conditions, covenants and restrictions (CC&Rs) shall be provided to the Planning Commission during the Level B site plan review meeting, with final approval of the CC&R by staff. Once approved, the CC&Rs shall be recorded with Greene County. The CC&Rs must create a homeowner's association that will provide for maintenance of all common areas in the PND which includes but are not limited to areas of common open space, parking, roadways, street right-of-ways, exterior setbacks, driveways, required yards, utility easements, pedestrian paths, and shared community buildings or shared accessory structures.
4. The dwelling units may be individually owned or rented with no more than 50 percent rentals.

5. Prior to the Planning commission conditional use hearing, a preliminary meeting with utilities and planning staff to review the project must be held. A Level B site plan review, including a storm water plan as specified in 1226.06 Design Standards is required for approval of the PND conditional use. Prior to submittal to the Planning Commission, the Level B site plan shall be reviewed by a designated Village of Yellow Springs engineer, who will provide a written report of findings for the Planning Commission. The engineer may be present at the conditional use hearing to answer questions related to their findings.
6. Pedestrian pathways must be included to provide for movement of residents and guests from parking areas to homes and other amenities. These pathways must be shown on the site plan and be part of the common areas/tracts.
7. Mailboxes shall follow the US Postal Service requirements for cluster box units (CBUs).
8. Other considerations not addressed specifically, shall follow the requirements of the Yellow Springs Planning and Zoning codes.

~~—(7) Short-term rentals.~~

~~—A. Permit. Upon approval of the conditional use, the owner shall submit to the Zoning Administrator the name and emergency contact information for the owner or property manager who can be contacted and will respond within a reasonable time period to any complaints, violations, emergencies or other concerns related to the short-term rental property or tenants.~~

~~—B. Location. The Planning Commission shall consider the proposed location relative to its proximity to other such uses in the vicinity in order to avoid an undue concentration that could have a negative effect on the surrounding neighborhood.~~

~~—C. Maximum occupancy. The maximum number of tenants permitted shall be determined by applicable Health Department requirements.~~

(f) Storage and Distribution.

(1) Cartage, express and parcel delivery facilities, freight terminals, warehousing and storage.

A. The site shall have a minimum area of ten acres, provided the Planning Commission, may reduce the site area to no less than five acres where it is demonstrated to its satisfaction that the truck terminal operation will be compatible with other surrounding uses.

B. All ingress and egress from the site shall be directly onto an arterial street.

C. The site shall be designed so all vehicles are able to enter and leave the site without having to back out onto the street. Driveways shall be curbed for their full length in the front yard.

D. The Planning Commission shall determine that traffic will be no more hazardous nor the volume of traffic any greater than the capacity for the street involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and adequacy of intersections. All access to the site shall be from arterial streets built to a standard to accommodate heavy trucks.

(2) Mini-warehouse and self-storage facilities.

A. The minimum size of the site shall be not less than two acres.

B. All ingress and egress from the site shall be directly onto an arterial or collector street.

C. No storage of combustible or flammable liquids, combustible fibers, or explosive materials, as defined in the Fire Prevention Code, or toxic materials, shall be permitted within the

self-storage buildings or upon the premises. However, storage of recreational vehicles containing fuel and other automotive fluids is permitted.

D. The use of the premises shall be limited to storage of personal items and business items and shall not be used for operating any other business, maintaining or repairing vehicles or for any recreational activity or hobby.

E. Limited retail sales of products and supplies incidental to the principal use, such as packing materials, packing labels, tape, rope, protective covers, locks and chains shall be permitted.

F. All yards abutting a street shall be screened from view in accordance with the requirements of Section [1270.02\(b\)](#).

G. A security manager may be permitted to reside on the premises. A minimum of two parking spaces shall be provided for the dwelling unit.

H. This use shall not be permitted within the Gateway Overlay District.

(g) Utility.

(1) Wireless communication facilities.

A. Required approvals. The placement of wireless communications facilities and towers shall meet the following approval requirements:

1. Installation of new antenna. The installation of new antenna(s) on existing towers, including legal nonconforming towers, and existing alternative structures (such as water towers, buildings, or church steeples) may be approved by the Zoning Administrator, subject to all requirements of this section. Any new antenna that will add either 10% or 20 feet, whichever is less, above the highest point of any existing tower or alternative structure shall be subject to the provisions of this chapter for the installation of new towers as described below.

2. Installation of new accessory structures. The installation of new accessory structure(s), such as equipment buildings, to support the installation of additional antennas on existing towers or alternative structures may be approved by the Zoning Administrator.

B. Removal. Any tower unused or left abandoned for 12 consecutive months shall be removed by the property owner at his or her expense. Regardless of the tower ownership, the property owner shall be responsible for removal. Upon the request of the Zoning Administrator, the operator of any facility to which this provision applies shall provide documentation of the use of that facility for the purpose of verifying any abandonment.

C. Interference with public safety facilities. No new wireless communications facilities or tower shall result in any interference with public safety telecommunications.

D. Required documentation for all facilities. In addition to the requirements provided in this chapter for the receipt of conditional use approval, applications for new towers, new antenna, and new related facilities shall include the following: Where the equipment is mounted on an existing building, the comparable information for that structure shall be provided.

1. Engineer's report. A report from a professional engineer licensed in the State of Ohio that:

a. Describes the height and design of any new tower and/or antenna including a cross-section, latitude, longitude, and elevation;

b. Describes or updates (in the case of new antenna) the tower's capacity, including the type and number of antennas it can accommodate;

c. Certifies compliance of the construction specifications with all applicable building codes (including but not limited to the foundation for the tower, anchors for the guy wires if used, co-location, and strength requirements for natural forces: ice, wind, earth movements, etc.);

d. Certifies that the facility will not interfere with established public safety telecommunication facilities; and

e. Includes the engineer's seal and registration number.

2. Letter of intent. A letter of intent committing the tower owner, property owner, antenna owners, and their successors to allow the shared use of the tower.

3. Proof of compliance. Copies of any required approvals from the Federal Communications Commission (FCC), Federal Aviation Administration (FAA) and all other appropriate State and Federal agencies.

4. Removal affidavit. A letter committing all parties, including the property owner and his or her successors, to remove the tower and all related accessory structures, fences, landscaping, and equipment if the tower is abandoned (unused for a period of 12 consecutive months). The removal affidavit shall be recorded in Greene County, with a copy of the recorded affidavit provided to the Zoning Administrator.

E. Determination of new tower need. Any proposal for a new telecommunications tower shall only be approved if the applicant submits verification from a professional engineer licensed in the State of Ohio that the antenna(s) planned for the proposed tower cannot be accommodated on any existing or approved towers or other structures within a two-mile radius of the proposed tower location due to one or more of the following reasons:

1. Existing public site. There are no existing publicly- owned towers or sites suitable to accommodate the proposed tower or antennas.

2. Inadequate structural capacity. The antenna(s) would exceed the structural capacity of an existing or approved tower or other structure.

3. Interference. The antennas would cause interference impacting the usability of other existing or planned equipment at the tower site.

4. Inadequate height. The existing or approved towers or structures within the search radius cannot accommodate the planned equipment at the height necessary.

5. Land availability. Additional land area is not available (when necessary).

F. Design requirements for new towers and related facilities. All telecommunications facilities shall meet the following design requirements:

1. Lighting. Tower lighting shall only be as required for safety or security reasons or as required by the FAA or other Federal or State authority. All ground-level security lighting shall be oriented inward so as not to project onto surrounding properties, and shall have 90-degree cut-off luminaries (shielded down lighting).

2. Co-location. All telecommunication towers shall be designed, and engineered structurally, electrically and in all other respects to accommodate both the applicant's equipment and at least one additional user for every 50 feet in total tower height in excess of 75 feet.

a. Each additional user shall be assumed to have an antenna loading equal to that of the initial user.

b. Towers must be designed to allow for rearrangement of antennas and to accept antennas mounted at varying heights.

3. Height. All towers and antenna shall conform to FAA tall structure requirements. The maximum height of accessory structures shall be 15 feet.

4. Signs. Signs for all telecommunications facilities shall be permitted up to a total of four square feet per user and mounted on the fence.

G. Site requirements for new towers and related facilities. All telecommunications facilities shall meet the following site requirements:

1. Vehicular access. Vehicle access drives may be gravel or paved and shall be located within an access easement that is a minimum of 20 feet in width. Any portion of the entrance located in a public right-of-way shall meet the applicable public street design, construction, and pavement requirements.

2. Site area. The lot (or lease area) where the tower is located shall be large enough to accommodate all future anticipated accessory structures needed by future antenna users. The size of the site shall also be of sufficient area to allow the location of one additional tower and associated support facilities.

a. The arrangement of the initial tower and the topography of the site shall be considered in determining the sufficiency of the site area.

b. At a minimum, the width and depth of the tower site shall be a distance equal to the tower height. The tower shall be placed within the property so it is no closer to any lot line than one-half the tower height.

c. All tower supporting and stabilizing wires shall be located within the site area.

3. Setback. The required setbacks for the tower and related facilities shall be as follows:

a. Side and rear setback. The minimum side and rear setback for all facilities, including the security fence, shall be 25 feet.

b. Front setback. The minimum front setback for all facilities shall be as specified by this code for the zoning district in which it is located. No part of a wireless telecommunications facility, including the security fence, and any required guide wires or bracing shall be permitted in the required front setback.

c. Additional setback from residential districts. No facility shall be placed closer than one and one-half times the total height of the tower or 200 feet, whichever is greater, to any property included in a residential district.

d. Additional landscaping. Landscape screening, in addition to the requirements of this chapter, may be provided in the setback area.

4. Encroachment. No part of any telecommunications facility nor associated lines, cables, equipment, wires or braces shall at any time extend across or over any part of a public right-of-way, sidewalk, or property line.

5. Fencing. An eight-foot high security fence shall completely surround the tower and accessory equipment building site. Any deterrents, such as barbed wire, shall be at least eight feet above grade.

a. An area ten feet in width shall remain outside of the fence for the purpose of providing the landscape screening described in subsection (g)(1)H., below.

b. In the residential districts, the required security fence enclosing the facility shall be 100% opaque and of wood, brick, or stone construction. Opaque, eight-foot-tall gates shall be provided for access. In no instance shall the use of chain link fencing or gates with screening inserts be considered as opaque.

H. Landscape screening. Evergreen buffer plantings shall be located and maintained around the outermost perimeter of the security fence of all wireless communications facilities. The landscape plan for the site shall provide plants in a number and design to provide a screen of the fence, all equipment and the base of the tower, as determined by the Planning Commission.

1. If evergreen shrubs are used they shall be planted a maximum of five feet apart on center.

2. If evergreen trees are used they shall be planted a maximum of ten feet apart on center.

(h) Vehicle and Transportation.

(1) New and used vehicle sales.

- A. The minimum lot size shall be one-half acre with a minimum lot width of 200 feet.
- B. Signs shall conform to the requirements of [Chapter 1266](#). Flags, pennants, balloons, ribbons, or other attention getting devices are not permitted.
- C. Temporary or portable structures are not permitted.
- D. Outdoor display.
 - 1. Vehicles, for sale or otherwise, shall be parked on approved hard surfaces.
 - 2. Vehicle display areas shall meet the setback requirements for parking areas as required in the B-2 District.
 - 3. Vehicle display or storage shall not be allowed in areas required for visitor, employee or service parking, as required by [Chapter 1264](#).
 - 4. All other merchandise available for sale, including, but not limited to, clothing, accessories, collectibles etc. shall be sold and displayed within an enclosed building.
- E. All service work, including car washing, repair and general maintenance, shall be conducted entirely within an enclosed building.
- F. Audible paging systems or outdoor speakers are not permitted.
- G. The use of spotlights or similar equipment is prohibited.

(2) Vehicle repair, major.

- A. All main and accessory structures shall be set back a minimum of 75 feet from any residential district.
- B. There shall be a minimum lot frontage of 100 feet or the zoning district requirement, whichever is greater, on an arterial or collector street, and all access to the property shall be from that street.
- C. Driveways or curb openings shall be located at least 100 feet from any intersection and 50 feet from any adjacent residential district boundary line. No drive shall be located nearer than 75 feet, as measured along the property line, to any other driveway.
- D. A raised curb of six inches in height shall be constructed along the perimeter of all paved and landscaped areas.
- E. Overhead doors shall not face a public street or residential district. The Planning Commission may modify this requirement upon a determination that there is no reasonable alternative and the poor visual impact will be diminished through use of building materials, architectural features and landscaping.
- F. All maintenance and repair work shall be conducted completely within an enclosed building.
- G. There shall be no outdoor storage or display of vehicle components and parts, materials, commodities for sale, supplies or equipment.
- H. Storage of wrecked, partially dismantled, or other derelict vehicles, or overnight parking of any vehicle except a tow truck shall be permitted up to 30 days in a designated area. Such area shall be screened from public rights-of-way by a solid, sight-obscuring fence or wall six feet in height.
- I. If the use includes installation of oil or other automotive fluids except for fuel, the applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent ground water contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut-off valves, as approved by the Fire Department.

(3) Vehicle repair, minor.

A. A building or structure shall be located at least 40 feet from any side or rear lot line abutting a residential district.

B. Driveways or curb openings shall be located at least 100 feet from any intersection and 50 feet from any adjacent residential district boundary line. No drive shall be located nearer than 75 feet, as measured along the property line, to any other driveway.

C. Equipment, including hydraulic hoists, pits, and lubrication, greasing, and other automobile repairing equipment shall be located entirely within an enclosed building. Outdoor storage or display of merchandise, such as tires, lubricants and other accessory equipment is not permitted.

D. All activities shall occur inside a building. No vehicle may be stored outside on the property for more than five days.

E. Storage of gasoline, liquefied petroleum gas, oil or other flammable liquids or gas above ground shall not be permitted.

F. Floor drains shall not connect to the sanitary sewer system.

G. The minimum required lot frontage shall be on an arterial or collector street and all access to the property shall be from that street.

H. If the use includes installation of oil or other automotive fluids except for fuel, the applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent ground water contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut-off valves, as approved by the Fire Department.

I. If the use includes fuel sales, the requirements for a vehicle service station shall also be met.

(4) Vehicle service stations.

A. There shall be a minimum lot area of one acre and minimum lot width of 150 feet on an arterial street.

B. Only one driveway shall be permitted from each street, unless the Planning Commission determines additional driveways will be necessary to ensure safe and efficient access to the site. Driveways or curb openings shall be located at least 100 feet from any intersection and 50 feet from any adjacent residential district boundary line. No drive shall be located nearer than 75 feet, as measured along the property line, to any other driveway.

C. Pump islands shall be a minimum of 30 feet from any public right-of-way or lot line. Tanks, propane, and petroleum products shall be set back at least 15 feet from any lot line.

D. Overhead canopies shall be setback at least 20 feet from the right-of-way and constructed of materials consistent with the principal building. The proposed clearance of any canopy shall be noted on the site plan. All signs, logos, or identifying paint scheme shall be in accordance with [Chapter 1266](#). The canopy shall not exceed 18 feet in height. Lighting in the canopy shall be recessed, fully shielded, and directed downward to prevent off-site glare.

E. If the use includes installation of oil or other automotive fluids except for fuel, the applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent ground water contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut-off valves, as approved by the Fire Department.

F. In the event that a service station use has been abandoned or terminated for a period of more than 12 months, all underground gasoline storage tanks shall be removed from the premises, in accordance with State requirements.

G. A vehicle service station may be combined with other uses, such as convenience store, vehicle wash, and/or restaurants; provided all requirements, including parking, are met for each use and the most restrictive requirements applicable to any single use shall apply.

(5) Vehicle wash facilities.

A. All washing activities must occur inside a building.

B. The building exit for washed vehicles must be at least 75 feet from the entrance drive that accesses the site.

C. Required stacking spaces for waiting vehicles shall not be located within a public or private right-of-way and shall not conflict with maneuvering areas, parking spaces and other activities. Stacking lanes shall be designed to prevent vehicle queues from extending beyond the property.

D. Wastewater must be recycled, filtered or otherwise cleansed to minimize discharge of soap, wax and solid matter into public sewers. All such water shall be discharged only into the public sanitary sewer system.

E. Only one driveway shall be permitted from any street, unless the Planning Commission determines additional driveways will be necessary to ensure safe and efficient access to the site.

F. Driveways or curb openings shall be located at least 100 feet from any intersection and 50 feet from any adjacent residential district boundary line. No drive shall be located nearer than 75 feet, as measured along the property line, to any other driveway.

G. For automated drive-through wash facilities, a by-pass lane is required that allows bypassing waiting vehicles.

H. Overhead doors shall not face a street, except if approved by the Planning Commission in these circumstances:

1. When the doors of a through garage are located at the front and rear of a building; or
2. When a garage is located on a corner or through lot; or
3. When determined that a rear garage door would negatively affect an abutting residential use or district.

I. A vehicle wash facility building and any accessory buildings and uses, including vacuums, shall be located at least 50 feet from a street right-of-way line and 100 feet from any residential district boundary.

J. The property owner or operator must comply with all applicable noise regulations. Air handling equipment shall be located on a roof, be equipped with intervening noise reduction baffles, be in proper working condition and must also comply with this provision.

VILLAGE OF YELLOW SPRINGS, OHIO

RESOLUTION 2017-49

AWARDING A BID FOR CONSTRUCTION OF NEW CREW QUARTERS FOR ALL PUBLIC WORKS, ELECTRIC, WATER DISTRIBUTION AND SEWER COLLECTION EMPLOYEES ON THE PROPERTY KNOWN AS THE SUTTON FARM TO OBERER THOMPSON COMPANY

WHEREAS, the Ohio Bureau of Workers Compensation performed a safety inspection of the current crew quarters at Sutton Farm, and:

WHEREAS, said inspection revealed several impediments to a safe and healthy work environment necessary to allow Village staff to perform their job functions safely and efficiently, and

WHEREAS, Council has previously agreed that existing crew quarters do not meet the current needs of the Village and have authorized the issuance of documents requesting bids related to the construction of said crew quarters, and:

WHEREAS, those bids have now been received and tabulated and a lowest and best bidder has been determined, and that lowest and best bidder has no unresolved findings for recovery as determined by the Auditor of the State of Ohio,

NOW, THEREFORE, COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO DOES HEREBY RESOLVE THAT:

SECTION 1. The bid for construction of the above cited improvements is hereby awarded to Oberer Thompson Company.

Section 2. The amount of the bid is \$258,750.00, and is therefore the "Lowest and Best".

Section 3. The Village Manager is hereby authorized and directed to enter into a contract to construct crew quarters improvements as designed with Oberer Thompson Company of Dayton, Ohio.

Karen Wintrow, President of Council

Passed:

Attest: _____
Judy Kintner, Clerk of Council

Roll Call: Wintrow ____ Housh ____ Simms ____
 MacQueen ____ Hempfling ____

VILLAGE OF YELLOW SPRINGS, OHIO

RESOLUTION 2017-50

DECLARING, NOVEMBER 25, 2017 "MAYOR FOUBERT DAY"
IN THE VILLAGE OF YELLOW SPRINGS

WHEREAS, DAVID FOUBERT HAS SERVED THE VILLAGE OF
YELLOW SPRINGS AS ITS MAYOR FOR 26 YEARS, AND

WHEREAS, IN THOSE 26 YEARS MAYOR'S COURT HAS BEEN
HELD 624 TIMES, 312 COUPLES HAVE BEEN MARRIED, AND
126 PROCLAMATIONS HAVE BEEN DELIVERED, AND

WHEREAS, MAYOR FOUBERT HAS ATTENDED MYRIAD
VILLAGE EVENTS TO WHICH HE HAS CONTRIBUTED HIS
SUPPORT, HIS WIT, AND HIS GENUINE PASSION FOR HIS
VILLAGE AND ITS DIVERSE AND MANY SPLENDORED
COMMUNITY MEMBERS, AND

WHEREAS, MAYOR FOUBERT HAS LEFT A LASTING
IMPRESSION ON THIS SMALL VILLAGE THAT WE TODAY WISH TO
ACKNOWLEDGE,

NOW, THEREFORE, BE IT RESOLVED THAT:

SECTION 1. NOVEMBER 25TH, 2017 SHALL BE RECOGNIZED
AS MAYOR FOUBERT DAY IN THE VILLAGE OF YELLOW
SPRINGS, AND IS INTENDED AS A DAY OF CELEBRATION AND
JOY.

SIGNED: KAREN WINTROW, PRESIDENT OF COUNCIL

PASSED:

ATTEST: _____
JUDY KINTNER, CLERK OF COUNCIL

ROLL CALL:
WINTROW _____ HOUSH _____ SIMMS _____
MACQUEEN _____ HEMPFLING _____

Guidelines for Commissions/Committees/Boards

Boards and Commissions - any body with a Council-approved charter or membership roster shall be a public body. All Boards and Commission as so defined shall operate in accordance with the Open Meetings Act (O.R.C. 121.22), the Public Records Act (O.R.C. 149.43), and Ohio Ethics Laws (O.R.C. Ch. 102) and related statutes (O.R.C. Ch. 2921). All Boards and Commissions of the Village of Yellow Springs are considered public bodies and shall operate in accordance with the Open Meetings Act (O.R.C. 121.22), the Public Records Act (O.R.C. 149.43) and Ohio Ethics Laws (O.R.C. Ch. 102) and related statutes (O.R.C. Ch. 2921).

How to Communicate with Council.

1. Minutes from commission, committee and board meetings will be provided to the Clerk of Council as soon as they are approved. **A good practice is to provide the Clerk with a draft agenda and approved minutes immediately following the monthly meeting.**
2. The Council liaison will report any unusual or time-limited information from a meeting she/he has attended that needs to be known before the second Council meeting of each month.

Role of Council Representative

1. Council Representative should not be the President of any commission, committee or board.
2. The Representative should take questions and special decisions to Council if a Council response is desired.
3. The Representative should report to the Commission anything pertinent from the last Council meeting.
4. The Representative makes sure the Commission abides by Sunshine Law, and asks the President or Secretary to notify the Clerk of Council of meeting times, changes in meetings, etc.
5. The Representative, along with another Council member, interviews applicants for open seats on his/her commission or board, then brings recommendations to Council and leads discussion on the merits of each candidate. **This is to be done immediately following conclusion of the interview period. ALL INTERVIEWS ARE TO ADHERE TO EEOC GUIDELINES, which will accompany the letters of interest provided to Council members interviewing applicants.**
6. Each Council Representative should be a voting member of the commission, committee or board; unless otherwise stated in the Codified Ordinances.

Council Expectations of Commissions, and vice-versa.

1. Commissions, committees and boards will conduct meetings with the same rules under which Council operates. **This includes reading and signing a Roles and Responsibilities document which references ethical standards for public officials.**

2. If Council asks a Commission for specific help, the expectation is that that body will do their best to respond in a timely manner.
3. Commission, Committee and Board meetings will be open to the public at announced times and places.

Minutes

1. Secretary takes minutes at each meeting and reproduces them for all. Those minutes should be approved by the commission, committee or board at their next meeting and then immediately forwarded to the Clerk of Council.

Implementing Directives and Initiating Projects

1. Council requests for help take priority over the other tasks Commission members have set for themselves. Otherwise, Commissions will initiate projects they collectively generate ideas about.
2. **If a Board or Commission is asked to provide information to Council on a specific project or topic, that information is expected to be publically presented to Council prior to any other form of dissemination.**

Sunshine Law, Process & Procedures

1. Each commission, committee and board should have a copy of the Sunshine Law, a list of proper processes and procedures, and follow them.

Attendance Policy

1. Council may remove members of commissions, committees and boards, for failure to attend any three consecutive meetings.

Role of Council Clerk and Commissions

1. **Clerk is responsible for taking and transcribing minutes of Planning Commission, BZA, and Village Council. All other minutes are the responsibility of the Board or Commission Secretary.**
2. If requests are to be made of the Clerk by board members, they must be made through their Chairperson.

Board and Commission Applicant Process

Prepared by: Clerk of Council, 11-17-2017

At present, Council is responsible for maintaining 12 Boards, Commissions or Task-Forces. Of those, one is on hiatus, and three meet only as needed. Of the 12, two are required by the Ohio Revised Code (Planning Commission and Board of Zoning Appeals--BZA).

In 2015, Council standardized the membership and procedures sections of all existing boards and commissions with the exception of Planning Commission and BZA.

As we endeavor to achieve consistency in recruiting, interviewing and communicating with Board and Commission members, the following procedures are either now in place or are being herein proposed as a best practice regarding communication from the Council Clerk.

As a Board/Commission member approaches the end of term, or as a position becomes available on a body of Council, the Clerk shall:

- Inquire of the member whose term is expiring as to whether they wish to continue to serve, and if so, obtain acknowledgement of this from them.
- Advertise the positions(s) in the YS News for 2 weeks (as of Fall 2017, this was expanded to include advertising on the Village run sites, including the Facebook page, where more information can also be provided and to the Cable Access Channel).
- Disseminate names and resumes/letters of interested applicants to the Council rep as they come in, immediately follow up with the candidate to provide further information if needed and to let them know that a Council member will be contacting them in several weeks for an interview.
- Provide each applicant with the establishing ordinance, the Roles and Responsibilities document, and the Guidelines for Public Officials document prior to the interview.
- Encourage all applicants to attend a meeting of the board or commission in which they have expressed interest.
- Schedule interviews as soon as the notice has appeared in the paper.
- Follow up with interviewees and interviewers regarding scheduling and reminders.
- Once decisions are made, those are conveyed immediately to the Clerk, who then places nomination material in the Council packet, and awaits a final vote of Council.
- Once approved by Council, the Clerk sends either a packet of information and a welcome letter or a letter expressing regret that the candidate was not selected. This packet will provide the candidate the time and place for swearing-in, and will provide information for online Sunshine Law training, which is a requirement.

[Print](#)

Yellow Springs, OH Code of Ordinances

SECTION 6. GENERAL ELECTION LAWS TO APPLY.

The general election laws of the State of Ohio shall control in all elections except as otherwise provided by this Charter.

SECTION 7. TIME OF ELECTION.

Regular election of members of the Council shall be held on the first Tuesday after the first Monday in November in the odd-numbered years. Any matter which by the terms of this Charter may be submitted to the electors of the Village at any special election may be submitted at a regular election.

SECTION 8. NOMINATIONS.

Candidates for membership on the Council shall be nominated by petition. Each petition shall meet all requirements under Ohio law including but not limited to: (1) state the name of each person whose name is presented for a place on the ballot and that each person is a candidate for membership on the Council; (2) be signed so that the aggregate number of signatures of qualified electors of the Village applicable to each candidate be equal to not less than one percent of the current register of qualified electors; (3) be signed by the candidate certifying willingness to serve.

Each elector signing a petition shall add to his or her signature the date of signing. All signatures shall be made with ink. All petitions shall be filed with the Board of Elections no later than the date stipulated in the Ohio Revised Code for local elections.

(11-6-90, 11-3-15.)

SECTION 9. BALLOTS.

The ballots used in all elections provided for in this Charter shall be without party marks or designations. The ballots shall conform to the general practice established by the Greene County Board of Elections.

(11-6-90.)

SECTION 10. VOTING.

In each election to membership in the Council each elector may vote for as many candidates as there are offices to be filled.

YELLOW SPRINGS, OHIO
NOMINATING PETITION

We the undersigned, qualified electors of the Village of Yellow Springs, Ohio hereby

nominate _____, who

resides at _____

as a candidate for the office of _____

of the Village of Yellow Springs, Ohio, to be voted at the general election next
hereafter to be held _____

Signatures	Place of Residence Including Street Number	Voting Precinct	Date of Signing
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			

The State of Ohio, County of Greene, ss

_____; being duly sworn, deposes that
he/she is the circulator of the reverse petition confirming _____ signatures and that said signatures
were written in his/her presence on the date mentioned and that they are the signatures of the
persons whose names they propose to be

(Signature of Circulator)

Subscribed and sworn to be before me this _____ day of _____ 20__

(Signature of Officer Administering Oath)

(Title of Officer)

CERTIFICATE OF VALIDITY

The State of Ohio, Greene County, ss

We, the undersigned constituting the Board of Elections of Greene County, do hereby
certify that we have reviewed and examined the foregoing petition and find the same sufficient
and valid

IN WITNESS WHEREOF, we have hereunto subscribe on names and caused our
official seal to be affixed at Xenia, Ohio this _____ day of _____, 20__

(Seal)

(Chairman)

Attest:

(Clerk)

(Board of Elections)

CERTIFICATE OF WILLINGSNESS TO SERVE

The undersigned says that his/her name having been submitted for nomination for the
office of _____ of the Village of Yellow Springs,
Ohio and she/he does hereby certify his/her willingness to serve.

_____ (Candidate)

GENERAL INSTRUCTIONS

1. All signatures must be made with ink or indelible pencil
2. The several papers which may make up this petition must be signed by not less one (1) percent of the current register of qualified electors of the Village of Yellow Springs (1% x 3,188=32)
3. Each candidate shall certify his willingness to serve
4. Petitions must be filed with the Board of Elections of Greene County, Ohio no earlier than 90 days prior to election day by 4:00pm, and no fewer than 30 days before election day at 4:00pm.
5. If you need assistance please call the Board of Elections of Greene County at 567-7470

Declaration of Candidacy

Party Primary Election

For Elective Offices of Cities or Villages

To be filed with the Board of Elections not later than 4 p.m. of the 90th day before the primary election.

R.C. 3513.05, .07, .09, .10, .191, 3501.38

Declaration of Candidacy

NOTE - The candidate must fill in, sign and date this declaration of candidacy before the signatures of electors are affixed.

I, _____, the undersigned, hereby declare under penalty of election falsification that
Name of Candidate
my voting residence address is _____, Ohio _____,
Street Number and Address, if any, (or rural route and number) City or Village Zip Code
and I am a qualified elector.

I further declare that I desire to be a candidate for nomination to the office of _____
Office
in the municipality of _____, as a member of the _____ Party for the:
Municipality (City or Village) Political Party
Check one ☐ full term or ☐ unexpired term ending _____, at the primary election to be held on the
Unexpired Term Ending Date
_____ day of _____,
Day Month Year

I further declare that, if elected to this office or position, I will qualify therefor, and that I will support and abide by the principles enunciated by the _____ Party.
Political Party

Dated this _____ day of _____, _____
Day Month Year
Signature of Candidate

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

Petition for Candidate

This petition shall be circulated only by a member of the same political party as stated above by the candidate.

We, the undersigned, qualified electors of the State of Ohio, whose voting residence is in the county, city, village, or township, set opposite our names, and members of the _____ Party, hereby certify
Political Party
that _____, whose declaration of candidacy is filed herewith, is in our opinion,
Name of Candidate
well qualified to perform the duties of the office or position to which the person desires to be elected.

Signatures on this petition should be from only one county and must be written in ink. Signatures on this petition shall be of persons who are of the same political party as stated above by the candidate.

Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				
21.				
22.				
23.				
24.				

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

Circulator Statement

Must be completed and signed by the circulator.

I, _____, declare under penalty of election falsification that I reside at the address
Printed Name of Circulator
appearing below my signature; that I am a member of the _____ Party; that I am the circulator
Political Party
of the foregoing petition containing _____ signatures; that I witnessed the affixing of every signature;
Number
that all signers were to the best of my knowledge and belief qualified to sign; and that every signature is to the best
of my knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact
acting pursuant to section 3501.382 of the Revised Code.

Signature of Circulator

Permanent Residence Address

City or Village

State

Zip Code

**IMMIGRATION STATUS/
ENFORCEMENT**

RICHARD S. BIEHL – DIRECTOR AND CHIEF OF POLICE

9/12

Policy Statement

Local law enforcement activities with respect to immigration enforcement are very convoluted and difficult tasks given the realities of the Dayton Police Department's mission and personnel. The following points identify the scope of this policy:

- Local enforcement of immigration laws undermines the trust and cooperation with immigrant communities that are essential elements of community oriented policing.
- The Dayton Police Department does not possess adequate resources to enforce these laws in addition to the added responsibility of homeland security.
- Immigration laws are very complex and the training required to understand them would significantly detract from the core mission of our department to create safe communities.
- The Dayton Police Department does not possess clear authority to enforce the civil aspects of these laws. If given the authority, the Federal Government does not have the capacity to handle the volume of immigration violations that currently exist.
- The lack of clear authority increases the risk of civil liability for the City of Dayton and the Dayton Police Department.

I. Policy Concepts

- A. In order to serve the greater community, individuals must feel free to call for police services without fear of undue repercussions. Certain ethnic groups within the community have historically been slow to report crimes committed against them or their neighbors because of their immigration status. Police presence within the entire community is extremely important to engender a feeling of safety and trust for all residents of the City of Dayton. Therefore, officers are prohibited from inquiring about the immigration status of a victim or witness when conducting a criminal investigation.
- B. The federal government has the clear authority and responsibility over immigration and the enforcement of immigration laws. The federal government has given federal agencies such as Immigration and Customs Enforcement (I.C.E.) the specific authority to investigate a person's immigration status and deport individuals who have no legal status or authority to be in the United States.
- C. Dayton Police Department personnel shall not stop, investigate or arrest a person solely because of their real or perceived immigration status. Investigation of any person's immigration status must be done only for the most serious offenders. I.C.E. identifies the highest civil enforcement priority as "aliens who pose a danger to national security or a risk to public safety." Lesser priorities include recent illegal entrants and aliens who are fugitives or otherwise obstruct immigration controls.

Within the highest priority identified by I.C.E. are persons most likely to come to attention of local law enforcement. These persons are classified under the following categories: 1 – persons convicted of "aggravated felonies" (Section 101(a)(43) of the Immigration and Nationality Act) or two or more felonies, 2–persons convicted of any felony or three or more crimes punishable by less than one year incarceration, commonly referred to as misdemeanors and 3 –persons convicted of crimes punishable by less than one year incarceration.

If an individual poses a threat to national security or is a suspect in a felony offense of violence or a felony drug trafficking offense AND there is reason to believe that that individual does not have legal status to be in the United State, I.C.E. shall be contacted for any investigative or enforcement assistance.

I.C.E. shall not be contacted for assistance in investigations of felony property crimes or non-traffic misdemeanor crimes of violence without approval of a Division Commander (Police Major). I.C.E. shall not be contacted for assistance in investigations of misdemeanor property crimes or traffic offenses. For individuals arrested for any crime and booked into the Montgomery County Jail on a criminal charge, the Montgomery County Sheriff's Office will initiate their process for immigration enforcement.

- D. A victim of crime must be given the same consideration and level of service regardless of immigration status.

II. Identification Considerations

A. Foreign Consular Identification Cards

1. In 2005, the City Commission adopted a resolution authorizing the Dayton Police Department to recognize and accept as valid proof of identification, the *Matricula Consular* from Mexico and the Guatemalan consulate identification card. Therefore, officers will accept these documents as valid proof of identification of the individuals presenting them.
2. The resolution states that this identification does not have to be accepted if there are reasonable grounds for believing the identification card is counterfeit, altered, improperly issued to the person, or otherwise not accurate. Officers are not prohibited from seeking additional information to verify a person's current address or other facts that would enable them to fulfill their responsibilities or under circumstances where a specific form of identification was required.

B. Immigration Status

Under the current immigration laws there exist various immigration status classifications. The immigration status of any particular person can vary greatly. The most common status classifications include the following:

1. Lawful Permanent Residents are citizens of other countries who have been granted an immigration status that allows them to live and work permanently in the United States and eventually become naturalized U.S. citizens. They receive a card, commonly referred to as a "green card" (Appendix A.) from the federal government indicating they are permanent residents.
 2. Refugees and Asylees are persons who fear persecution based on race, religion, nationality, membership in a particular social group, or political opinion in their home countries and have been granted the privilege of living and working indefinitely in the United States. Refugees are resettled every year in the United States after their requests for refugee status, which have been submitted from abroad, have been reviewed and granted. Asylees are those who apply for the status from within the United States.
 3. Nonimmigrant Visa Holders are persons who are granted temporary entry into the United States for a specific purpose, such as visiting, working, or studying. The U.S. has 25 types of nonimmigrant visas, including A1 visas for ambassadors, B2 visas for tourists, P1 visas for foreign sports stars who play on U.S. teams and TN visas for Canadians and Mexicans entering the U.S. to work under NAFTA. Visa Holders are allowed to stay in the U.S. as long as they meet the terms of their status. Some nonimmigrant visa holders are eligible for work authorization, but not all.
 4. Authorized Immigrants are citizens of other countries who have been granted permission from the United States to temporarily remain in the United States. Some common examples: Temporary Protected Status (granted to persons of a certain countries when the U.S. government has determined that due to natural disasters or political unrest, it would not be safe for them to return home); Deferred Action status (DHS has decided that equitable factors exist such that immigration enforcement should be delayed for that person); and those with pending applications for an immigration status before United States Citizenship and Immigration Service (USCIS) or the Immigration Court. There are a wide variety of these types of statuses and many, but not all, of these authorized immigrants will also be granted an Employment Authorization Card, which allows them to work lawfully in the United States.
 5. Unauthorized Immigrants are citizens of other countries who have entered or remained in the U.S. without permission and without any legal status. Some illegal immigrants cross a land or sea border without being inspected by an immigration officer. Some persons fall into illegal status simply by violating the terms of a legal entry document or visa.
 6. Absconders are persons who have had a removal, deportation, or exclusion hearing before an immigration judge and are under a final order of deportation and have not left the United States.
-

III. Victims of Crime

Victims and witnesses to crimes may be particularly reluctant to report a crime because of their legal status and may be vulnerable to repeated attacks. For investigations of crimes where the victim might be reluctant to speak to the police about their status, an advocate or victim witness services should be contacted. The USCIS has a program that may provide a temporary visa to victims of certain crimes and their qualifying family members.

- A. U nonimmigrant status (or U visa) offers immigration protection for victims and is also a tool for law enforcement. To obtain U status, the victim must obtain a certification from law enforcement, however, law enforcement officials should note that providing a certification does not grant a benefit—only USCIS has the authority to grant or deny this benefit.

1. Victims are not required to be in legal immigration status to apply for U status, but they must:

- Be a victim of qualifying criminal activity and have suffered substantial physical or mental abuse as a result of the crime,
- Possess credible and reliable information about the qualifying criminal activity,
- Be, have been, or are likely to be helpful to the investigation and/or prosecution of that qualifying criminal activity, and
- Be a victim of criminal activity that violated a U.S. law.

2. Victims of the following crimes may be eligible for a U nonimmigrant visa:

Abduction, Abusive Sexual Contact, Blackmail, Domestic Violence, Extortion, False Imprisonment, Female Genital Mutilation, Perjury, Felonious Assault, Hostage Taken, Incest, Peonage, Involuntary Servitude, Kidnapping, Manslaughter, Rape, Murder, Obstruction of Justice, Witness Tampering, Prostitution, Sexual Assault, Slave Trade, Torture, Trafficking, Sexual Exploitation, Unlawful Criminal Restraint, Other Related Crimes

3. To apply for U nonimmigrant status, the victim must file USCIS Form I-918, Petition for U Nonimmigrant Status (Available on "P" drive under the Immigration folder). A law enforcement official must complete a certification using Form I-918, Supplement B (Appendix B. - available on "P" Drive under the Immigration folder) before the victim can apply for U status. The purpose of this form is for the law enforcement official to: (1) certify that the applicant was a victim of one of the qualifying crimes; (2) provide brief information regarding the criminal activity; and (3) certify that the victim possessed information concerning the criminal activity and has been, is being, or is likely to be helpful in the investigation and/or prosecution of the criminal activity. The detective assigned to investigate the case will be required to certify the form when encountered.

- B. T Nonimmigrant Status (or T visa) offers immigration protection for victims of trafficking in persons - also known as "human trafficking", which is a form of modern-day slavery. Traffickers prey on many types of people, often including individuals who are poor, unemployed, underemployed, or who lack the safety and protection of strong social networks. Victims are often lured under the false pretenses of good jobs and better lives, and then forced to work under brutal and inhumane conditions. Many believe that human trafficking is a problem that only occurs in other countries—but human trafficking also happens in the United States.

The T nonimmigrant status (or T visa) provides immigration protection to victims of severe forms of trafficking in persons who assist law enforcement in the investigation and prosecution of human trafficking cases. This can include sex or labor trafficking, defined by federal law as the recruitment, harboring, transportation, provision, or obtaining of a person for: (1) the purpose of a commercial sex act where the commercial sex act is induced by force, fraud, or coercion, or the person being induced to perform such act is under 18 years of age; or (2) labor or services through the use of force, fraud, or coercion for the purpose of involuntary servitude, peonage, debt bondage, or slavery.

Officers coming into contacts with these types of situations should have the RDC contact the local USCIS representative to respond.

1. Victims are not required to be in legal immigration status to apply for T status, but they must:

- Be a victim of a severe form of trafficking in persons,
 - Be physically present in the United States on account of the trafficking,
 - Comply with any reasonable requests for assistance in the investigation or prosecution (or be under the age of 18), and
-

- Suffer extreme hardship involving unusual and severe harm if removed from the United States.
 - 2. To apply for a T nonimmigrant status, applicants must file Form I-914, Application for T Nonimmigrant Status. Qualifying family members may also be eligible to apply for benefits.
- C. Immigration Relief under the Violence Against Women Act
1. Some immigrants may be afraid to report acts of domestic violence to the police or to seek other forms of assistance. Such fear causes many immigrants to remain in abusive relationships. Victims of domestic violence who are the child, parent, or current/former spouse of a United States citizen or a permanent resident (green card holder) and are abused by the citizen or permanent resident may be eligible to apply for a green card themselves without needing the abuser to file for immigration benefits on their behalf. This provision of the law was created under the Violence Against Women Act (VAWA).
 2. Victims must establish that they:
 - Have or had a qualifying relationship with the abuser spouse, or, are the parent or child of the abuser,
 - Reside or resided with the abuser,
 - Have good moral character, and
 - Have been victims of battery or extreme cruelty.
 3. VAWA provisions apply equally to men and women. Victims of domestic violence, whether a spouse, child, or parent of the abuser, may self-petition by filing Form I-360, Petition for Widow(er)s, Amerasians, and Special Immigrants. This form is available on USCIS' website, www.uscis.gov.

IV. Social Support, Referral and Advocacy Organizations

- A. **Organization:** Advocates for Basic Legal Equality, Inc. (ABLE)
Project/Service: Immigration Legal Assistance Program
Address: 333 W. First Street, Suite 500B, Dayton, OH 45402
Website: www.ablelaw.org
Contact: Jessica A. Ramos, 1-800-837-0814

ABLE's Immigration Legal Assistance Program provides high quality legal assistance and representation to low-income individuals with or without immigration documentation. Our efforts focus on stabilizing an individual's immigration status, as well as assistance in filing the appropriate paperwork either to remain in the United States with their families or to bring their families to the United States. In addition, our advocates provide representation in court to those facing possible removal or deportation. Services are provided in both English and Spanish. Other languages can be accommodated as needed. The Immigration Legal Assistance Program staff provide services specifically to those who live within ABLE's 32-county service area and who earn less than 300 percent of the Federal Poverty Guidelines.

- B. **Organization:** Advocates for Basic Legal Equality, Inc. (ABLE)
Project/Service: Migrant Farmworker and Immigration Program
Address: 333 W. First Street, Suite 500B, Dayton, OH 45402
Website: www.ablelaw.org; www.legalaidline.org
Contact: Jessica A. Ramos, 1-800-837-0814; Legal Aid Line: 1-888-534-1432

Advocates for Basic Legal Equality, Inc. (ABLE) is a non-profit regional law firm that provides high quality legal assistance in civil matters to help eligible low-income individuals and groups in western Ohio achieve self reliance, and equal justice and economic opportunity. ABLE serves 32 northwest and west central Ohio counties. ABLE's Migrant Farmworker Program serves all 88 Ohio counties. ABLE offices are located in Dayton and Toledo.

- C. **Organization:** Ahiska Turkish American Community Center
Project/Service: ESL Classes/Nutrition Classes
Address: 2324 Stanley Ave, Dayton OH 45404
Website: www.ataccdayton.org
Contact: Rustam Aziz, r.aziz@ataccdayton.org, info@ataccdayton.org, 937-760-8029
-

The Ahiska Turkish American Community Center offers English as Second Language (ESL) classes for the general public. Also, in Partnership with Ohio State University's Extension Office, they offer a free series of nutrition classes that instruct residents on how to eat healthier. Classes are informal and provide students with tools to take home at the end of each meeting. Students receive a graduation certificate from Ohio State University Extension upon completion of the eight week program.

- D. **Organization:** American Friends Service Committee (AFSC)
Project/Service: Dayton Project Voice
Address: 915 Salem Avenue, Dayton, OH. 45406
Website: www.afsc.org; www.facebook.com/afscdayton
Contact: Dr. Migwe Kimemia, mkimemia@afsc.org, 937-279-9668 (ext. 106)

The main goal of the Dayton Project Voice is to create a culture of friendship and hospitality for immigrants in Greater Dayton. The program has three strategic objectives: 1) Building capacity for transformational leadership among African immigrants in Greater Dayton; 2) Empowering African immigrants to lift up their voices for peaceful change in their communities and countries of origin; and 3) Creating awareness about African immigrants' socio-cultural and economic contributions to the Greater Dayton community. The program activities include: transformational leadership development workshops; Community issues forums; Dayton African Youth Soccer Tournament; African Diaspora Dialogue; and Public policy advocacy.

- E. **Organization:** Burundian Cultural and Educational Association
Website: www.bceaus.org; www.facebook.com/bcea.burundi
Contact: Dieudonne Nsabimana, bceassociation@yahoo.com, (937) 251-6765

Our vision is to strengthen our community through education, collaboration, and cultural exchange. We are promoting self sufficiency and advocacy within the African immigrant communities. We also seek to forge positive relationships with the larger Dayton community. Please visit our website or email us for more information.

- F. **Organization:** East End Community Services
Project/Service: Latino Family Advocacy
Address: 624 Xenia Ave Dayton, OH 45410
Website: www.east-end.org/latino.htm
Contact: Alejandra Espino, aespino@east-end.org, 937-259-1898

Case management, advocacy and other supportive services are provided by East End Community Services to help Latino citizens who are living in Dayton and Montgomery County. Latino Family Advocacy assists individuals with accessing needed community resources and agencies as well as explaining how various processes work, help is provided in Spanish. Assistance offered might include: how to access public health insurance for children, how to register for school, or resources to secure housing, food or clothing as needed. Persons who are eligible to work in the United States are also referred to employment services within the agency or other programs. Individuals are also connected to resources to help with specific immigration issues. The assistance provided includes help with accessing visual aids for those populations through Prevent Blindness. The services are free and open to anyone, although the targeted population is persons who are at, or below, 200% of the federal poverty level. Persons who need services may call at the main number to set up an appointment.

- G. **Organization:** Hispanic Catholic Ministries
Project/Service: Latino Family Advocacy
Address: 310 Allen St., Dayton, OH 45410
Website: <http://www.catholiccincinnati.org>
Contact: Sr. Maria Stacy, mstacy@catholiccincinnati.org, 937-258-1309

To welcome the incoming Hispanic population in the Dayton and northern areas of the archdiocese of Cincinnati; to provide networking to facilitate their living here and particularly to provide religious services to the Catholic Hispanic immigrant community.

- H. Latino Connection - Website: <http://latinodayton.org/community.html>
-

I. Victim Advocates

1. Municipal Prosecutor's Office - Victim's Advocate

The Victim Assistance Division is a support and advocacy program for victims of violent misdemeanor crimes. Services include: an understanding of the criminal justice system, assistance in speaking or communicating with prosecutors, court accompaniment, safety planning, referrals to social service agencies, VINE and crime victim compensation information. The goals of the program include: informing victims of their rights under the Ohio Victims Rights Law, lessening the trauma suffered by victims, increasing resources available to crime victims, increasing victim participation in the criminal justice system, and making the justice system aware of the needs and rights of crime victims in the community.

Phone (937) 333-4400

Hours - 8:00 am – 5:00 pm

Domestic violence cases are handled by Artemis House; however, the victim must contact them before they provide assistance.

Phone: (937) 222-SAFE (7233)

24 Hour Hotline

2. Montgomery County Prosecutor's Office - Victim Witness Division

The Victim/Witness Division is a section of the Montgomery County Prosecutor's Office designed to help those individuals who have been a victim or witness of a violent crime.

The Victim/Witness Division provides 24-hour crisis-intervention, support and informational services to those affected by violent crime. The Advocates specialize in cases of sexual assault/abuse and homicide; however, they offer a variety of services to other victims and witnesses as well. The goal of the Division is to help victims and witnesses understand their rights and responsibilities so that they can make intelligent choices about what is best for them.

The Victim Advocates are dedicated to providing emotional support, advocacy and assistance following the tragic death of a loved one. Reconstruction of a meaningful and functional life can be facilitated by such intervention.

Phone: (937) 225-5623

VI. Language Considerations (General Order 2.02-1 –Section II.)

The Regional Dispatch Center (RDC) has access to Language Line Interpretation Services. This service, which is available twenty-four hours a day, seven days per week, has the capability of interpreting more than 150 languages and employs more than 1,500 skilled interpreters. The service can be used by our personnel in one of three ways:

- A. Face-to-Face Encounters - Upon encountering a non - or limited - English-speaking individual, an officer/detective will display a Language Identification Card, containing the following phrase written in over 90 different languages:

"Point to your language. An interpreter will be called. The interpreter is provided at no cost to you."

If the individual cannot read, an officer/detective may make contact with a family member or acquaintance of the individual in an effort to identify the language spoken.

1. The officer requesting the service must provide an on-duty supervisor with the following information:

- Their name and PDA number
 - The language that needs to be interpreted
 - A brief explanation for why the service is needed.
-

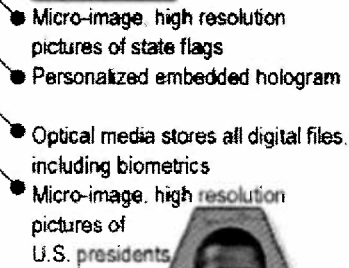
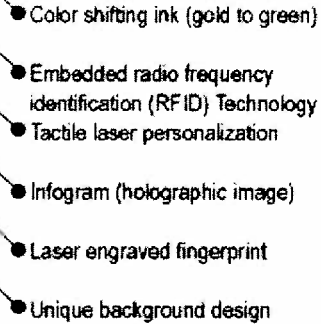
2. The on-duty supervisor will contact Language Line, using their toll free number. Upon contacting the service, the supervisor will provide the agent with their PDA number, our department's Customer Identification Number and the name of the language that needs to be interpreted. Once the appropriate interpreter is located, the Supervisor would connect the requesting officer with the interpreter. For billing purposes, the officer requesting the service must re-contact the supervisor to report the time they ended their conversation with the Language Line interpreter. The supervisor will then record this and send all of the information about the request in an e-mail to the Police Business Office.
- B. In most cases, officers should contact on-duty personnel with foreign language skills or one of the local interpreters available through the American Red Cross. If the call is made after hours, the officer should ask for the staff back-up at the local office.
- C. Use of Qualified Departmental Personnel or a Local Interpretive Service

The officer will also have the option of contacting one of the local foreign language interpreting services or a **qualified** officer listed in the Foreign Language Interpreter file and make arrangements to transport the interpreter to the scene, or the officer and foreign language speaking person to the interpreter.

1. SPECIAL SITUATIONS such as Family Trouble, Domestic Violence, Child Abuse, etc. **will** require an interpreter as the spouse or other family member(s) may know their foreign language and could provide inaccurate or misleading information.
 2. **Anytime** a non-English speaking person is Mirandized, an interpreter must be on scene to verify that they understand their rights.
 3. If the officer is in doubt as to other situations that might require an interpreter (E.g., Traffic citation, FIC, witness to a crime, etc.) they are to contact their supervisor prior to requesting an interpreter from outside of the department. If there is an officer on duty that is fluent in that foreign language, the officer may request of dispatch to have them respond.
 4. A DIBRS memorandum must be completed every time an interpreter is requested. The report must contain the date/time of the request, the name of the interpreter, their arrival time and the time they clear the scene.
 5. The officer's supervisor will note the above information including the DIBRS number of the memorandum and send it via E-mail to the business office for billing. This information will also be included in the incident log.
 6. Officers who wish to be called on interpreting assignments must provide some documentation to the Training Academy via Special Report to the Chief of Police that they are fluent in a specific foreign language or be able to demonstrate through one of the agencies listed in dispatch, their fluency in that foreign language.
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Appendix A.

1990年12月25日



Appendix B.

OMB No. 1615-0104; Expires 07/31/2012

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

**I-918 Supplement B,
U Nonimmigrant Status Certification**

START HERE - Please type or print in black ink.

Part 1. Victim information.

Family Name	Given Name	Middle Name
<input type="text"/>	<input type="text"/>	<input type="text"/>
Other Names Used (Include maiden name/nickname) <input type="text"/>		
Date of Birth (mm/dd/yyyy)	Gender	
<input type="text"/>	<input type="checkbox"/> Male <input type="checkbox"/> Female	

Part 2. Agency information.

Name of Certifying Agency <input type="text"/>		
Name of Certifying Official	Title and Division/Office of Certifying Official	
<input type="text"/>	<input type="text"/>	
Name of Head of Certifying Agency <input type="text"/>		
Agency Address - Street Number and Name		Suite #
<input type="text"/>		<input type="text"/>
City	State/Province	Zip/Postal Code
<input type="text"/>	<input type="text"/>	<input type="text"/>
Daytime Phone # (with area code and/or extension)		Fax # (with area code)
<input type="text"/>		<input type="text"/>
Agency Type <input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Local		
Case Status <input type="checkbox"/> On-going <input type="checkbox"/> Completed <input type="checkbox"/> Other: <input type="text"/>		
Certifying Agency Category <input type="checkbox"/> Judge <input type="checkbox"/> Law Enforcement <input type="checkbox"/> Prosecutor <input type="checkbox"/> Other: <input type="text"/>		
Case Number	FBI # or SID # (if applicable)	
<input type="text"/>	<input type="text"/>	

For USCIS Use Only.

Returned	Receipt
Date	
Date	
Resubmitted	
Date	
Date	
Reloc Sent	Date
Date	
Reloc Rec'd	Date
Date	
Date	
Remarks	

Part 3. Criminal acts.

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

- | | | | |
|--|---|---|---|
| <input type="checkbox"/> Abduction | <input type="checkbox"/> Female Genital Mutilation | <input type="checkbox"/> Obstruction of Justice | <input type="checkbox"/> Slave Trade |
| <input type="checkbox"/> Abusive Sexual Contact | <input type="checkbox"/> Hostage | <input type="checkbox"/> Peonage | <input type="checkbox"/> Torture |
| <input type="checkbox"/> Blackmail | <input type="checkbox"/> Incest | <input type="checkbox"/> Perjury | <input type="checkbox"/> Trafficking |
| <input type="checkbox"/> Domestic Violence | <input type="checkbox"/> Involuntary Servitude | <input type="checkbox"/> Prostitution | <input type="checkbox"/> Unlawful Criminal Restraint |
| <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"/> Manslaughter | <input type="checkbox"/> Sexual Assault | <input type="checkbox"/> Related Crime(s) |
| <input type="checkbox"/> Felonious Assault | <input type="checkbox"/> Murder | <input type="checkbox"/> Sexual Exploitation | <input type="checkbox"/> Other: (If more space needed, attach separate sheet of paper.) |
| <input type="checkbox"/> Attempt to commit any of the named crimes | <input type="checkbox"/> Conspiracy to commit any of the named crimes | <input type="checkbox"/> Solicitation to commit any of the named crimes | <input type="text"/> |



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.

Part 4. Helpfulness of the victim.

The victim (or parent, guardian or next friend, if the victim is under the age of 16, incompetent or incapacitated.):

1. Possesses 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 limitation.) (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

I. 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

Full Name	Relationship	Involvement

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 nonimmigrant status certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual noted 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 promises regarding the above victim's ability to obtain a visa from the U.S. Citizenship and Immigration Services, 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.

[illegible]

DAYTON POLICE DEPARTMENT
GENERAL ORDER
**FOREIGN NATIONALS, REFUGEES, and
IMMIGRANT MEMBERS of the COMMUNITY**



RICHARD S. BIEHL – DIRECTOR AND CHIEF OF POLICE

REV. 4/17

Policy Statement

Local law enforcement activities with respect to immigration enforcement are very convoluted and difficult tasks given the realities of the Dayton Police Department's mission and personnel. The following points identify the scope of this policy:

- Enforcement of immigration laws by local law enforcement can undermine the trust and cooperation with immigrant communities that are essential elements of community oriented policing.
- The Dayton Police Department does not possess adequate resources to enforce these laws in addition to its local public safety mission and the added responsibility of homeland security.
- Immigration laws are very complex and the training required to understand them would significantly detract from the core mission of our department to create safe communities.
- Dayton Police Department personnel do not possess authority to enforce the civil aspects of these laws
- The lack of clear authority increases the risk of civil liability for the City of Dayton and the Dayton Police Department.

I. Policy Concepts

- A. In order to serve public safety interests of the greater community, individuals must feel free to call for police services without fear of undue repercussions. Certain ethnic groups within the community have historically been slow to report crimes committed against them or their neighbors because of their immigration status. Police presence within the entire community is extremely important to engender a feeling of safety and trust for all residents of the City of Dayton. Therefore, officers are prohibited from inquiring about the immigration status of a victim or witness when conducting a criminal investigation.
- B. The federal government has the clear authority and responsibility over immigration and the enforcement of immigration laws. The federal government has given federal agencies such as Immigration and Customs Enforcement (I.C.E.) the specific authority to investigate a person's immigration status and deport individuals who have no legal status or authority to be in the United States.
- C. Dayton Police Department personnel shall not stop, investigate or arrest a person solely because of their real or perceived immigration status.

If an individual poses a threat to national security or is a suspect in a felony offense of violence or a felony drug trafficking offense AND there is reason to believe that that individual does not have legal status to be in the United States, I.C.E. shall be contacted for any investigative or enforcement assistance.

- D. A victim of crime must be given the same consideration and level of service regardless of immigration status.

II. Identification Considerations

A. Foreign Consular Identification Cards

1. In 2005, the City Commission adopted a resolution authorizing the Dayton Police Department to recognize and accept as valid proof of identification, the *Matricula Consular* from Mexico and the Guatemalan consulate identification card. Therefore, officers will accept these documents as valid proof of identification of the individuals presenting them.
2. The resolution states that this identification does not have to be accepted if there are reasonable grounds for believing the identification card is counterfeit, altered, improperly issued to the person, or otherwise not accurate. Officers are not prohibited from seeking additional information to verify a person's current address or other facts that would enable them to fulfill their responsibilities or under circumstances where a specific form of identification was required.



B. Immigration Status

Under the current immigration laws there exist various immigration status classifications. The immigration status of any particular person can vary greatly. The most common status classifications include the following:

1. Lawful Permanent Residents are citizens of other countries who have been granted an immigration status that allows them to live and work permanently in the United States and eventually become naturalized U.S. citizens. They receive a card, commonly referred to as a "green card" (Appendix A.) from the federal government indicating they are permanent residents.
2. Refugees and Asylees are persons who fear persecution based on race, religion, nationality, membership in a particular social group, or political opinion in their home countries and have been granted the privilege of living and working indefinitely in the United States. Refugees are resettled every year in the United States after their requests for refugee status, which have been submitted from abroad, have been reviewed and granted. Asylees are those who apply for the status from within the United States.
3. Nonimmigrant Visa Holders are persons who are granted temporary entry into the United States for a specific purpose, such as visiting, working, or studying. The U.S. has 25 types of nonimmigrant visas, including A1 visas for ambassadors, B2 visas for tourists, P1 visas for foreign sports stars who play on U.S. teams and TN visas for Canadians and Mexicans entering the U.S. to work under NAFTA. Visa Holders are allowed to stay in the U.S. as long as they meet the terms of their status. Some nonimmigrant visa holders are eligible for work authorization, but not all.
4. Authorized Immigrants are citizens of other countries who have been granted permission from the United States to temporarily remain in the United States. Some common examples: Temporary Protected Status (granted to persons of a certain countries when the U.S. government has determined that due to natural disasters or political unrest, it would not be safe for them to return home); Deferred Action status (DHS has decided that equitable factors exist such that immigration enforcement should be delayed for that person); and those with pending applications for an immigration status before United States Citizenship and Immigration Service (USCIS) or the Immigration Court. There are a wide variety of these types of statuses and many, but not all, of these authorized immigrants will also be granted an Employment Authorization Card, which allows them to work lawfully in the United States.
5. Unauthorized Immigrants are citizens of other countries who have entered or remained in the U.S. without permission and without any legal status. Some illegal immigrants cross a land or sea border without being inspected by an immigration officer. Some persons fall into illegal status simply by violating the terms of a legal entry document or visa.
6. Absconders are persons who have had a removal, deportation, or exclusion hearing before an immigration judge and are under a final order of deportation and have not left the United States.

III. **Victims of Crime**

Victims and witnesses to crimes may be particularly reluctant to report a crime because of their legal status and may be vulnerable to repeated attacks. For investigations of crimes where the victim might be reluctant to speak to the police about their status, an advocate or victim witness services should be contacted. The USCIS has a program that may provide a temporary visa to victims of certain crimes and their qualifying family members.

- A. U nonimmigrant status (or U visa) offers immigration protection for victims and is also a tool for law enforcement. To obtain U status, the victim must obtain a certification from law enforcement, however, law enforcement officials should note that providing a certification does not grant a benefit—only USCIS has the authority to grant or deny this benefit.
 1. Victims are not required to be in legal immigration status to apply for U status, but they must:
 - Be a victim of qualifying criminal activity and have suffered substantial physical or mental abuse as a result of the crime,
 - Possess credible and reliable information about the qualifying criminal activity,
 - Be, have been, or are likely to be helpful to the investigation and/or prosecution of that qualifying



- criminal activity, and
 - Be a victim of criminal activity that violated a U.S. law.
2. Victims of the following crimes may be eligible for a U nonimmigrant visa:
- Abduction, Abusive Sexual Contact, Blackmail, Domestic Violence, Extortion, False Imprisonment, Female Genital Mutilation, Perjury, Felonious Assault, Hostage Taken, Incest, Peonage, Involuntary Servitude, Kidnapping, Manslaughter, Rape, Murder, Obstruction of Justice, Witness Tampering, Prostitution, Sexual Assault, Slave Trade, Torture, Trafficking, Sexual Exploitation, Unlawful Criminal Restraint, Other Related Crimes
3. To apply for U nonimmigrant status, the victim must file USCIS Form I-918, Petition for U Nonimmigrant Status (Available on "P" drive under the Immigration folder). A law enforcement official must complete a certification using Form I-918, Supplement B (Appendix B. - available on "P" Drive under the Immigration folder) before the victim can apply for U status. The purpose of this form is for the law enforcement official to: (1) certify that the applicant was a victim of one of the qualifying crimes; (2) provide brief information regarding the criminal activity; and (3) certify that the victim possessed information concerning the criminal activity and has been, is being, or is likely to be helpful in the investigation and/or prosecution of the criminal activity. The detective assigned to investigate the case will be required to certify the form when encountered.
- B. T Nonimmigrant Status (or T visa) offers immigration protection for victims of trafficking in persons - also known as "human trafficking", which is a form of modern-day slavery. Traffickers prey on many types of people, often including individuals who are poor, unemployed, underemployed, or who lack the safety and protection of strong social networks. Victims are often lured under the false pretenses of good jobs and better lives, and then forced to work under brutal and inhumane conditions. Many believe that human trafficking is a problem that only occurs in other countries—but human trafficking also happens in the United States.
- The T nonimmigrant status (or T visa) provides immigration protection to victims of severe forms of trafficking in persons who assist law enforcement in the investigation and prosecution of human trafficking cases. This can include sex or labor trafficking, defined by federal law as the recruitment, harboring, transportation, provision, or obtaining of a person for: (1) the purpose of a commercial sex act where the commercial sex act is induced by force, fraud, or coercion, or the person being induced to perform such act is under 18 years of age; or (2) labor or services through the use of force, fraud, or coercion for the purpose of involuntary servitude, peonage, debt bondage, or slavery.
- Officers coming into contact with these types of situations should have the RDC contact the local USCIS representative to respond.
1. Victims are not required to be in legal immigration status to apply for T status, but they must:
- Be a victim of a severe form of trafficking in persons,
 - Be physically present in the United States on account of the trafficking,
 - Comply with any reasonable requests for assistance in the investigation or prosecution (or be under the age of 18), and
 - Suffer extreme hardship involving unusual and severe harm if removed from the United States.
2. To apply for a T nonimmigrant status, applicants must file Form I-914, Application for T Nonimmigrant Status. Qualifying family members may also be eligible to apply for benefits.
- C. Immigration Relief under the Violence Against Women Act
1. Some immigrants may be afraid to report acts of domestic violence to the police or to seek other forms of assistance. Such fear causes many immigrants to remain in abusive relationships. Victims of domestic violence who are the child, parent, or current/former spouse of a United States citizen or a permanent resident (green card holder) and are abused by the citizen or permanent resident may be eligible to apply for a green card themselves without needing the abuser to file for immigration benefits on their behalf. This provision of the law was created under the Violence Against Women Act (VAWA).
2. Victims must establish that they:



- Have or had a qualifying relationship with the abuser spouse, or, are the parent or child of the abuser,
 - Reside or resided with the abuser,
 - Have good moral character, and
 - Have been victims of battery or extreme cruelty.
3. VAWA provisions apply equally to men and women. Victims of domestic violence, whether a spouse, child, or parent of the abuser, may self-petition by filing Form I-360, Petition for Widow(er)s, Amerasians, and Special Immigrants. This form is available on USCIS' website, www.uscis.gov.

IV. Steps to Follow When a Foreign National is Arrested or Detained

A. SUMMARY OF REQUIREMENTS PERTAINING TO FOREIGN NATIONALS

- When foreign nationals from most countries are arrested or detained, they may, upon request, have their consular officers notified without delay of their arrest or detention, and may have their communications to their consular officers forwarded without delay. In addition, foreign nationals must be advised of this information without delay.
- For foreign nationals of some countries, consular officers must be notified of the arrest or detention of a foreign national even if the foreign national does not request or want notification.
- Consular officers are entitled to communicate with and to have access to their nationals in detention, and to provide consular assistance to them, including arranging for legal representation.
- When law enforcement or other government official becomes aware of the death, serious injury, or serious illness of a foreign national, consular officers must be notified.
- When a guardianship or trusteeship is being considered with respect to a foreign national who is a minor or an incompetent adult, consular officers must be notified.
- When a foreign ship wrecks or a foreign aircraft crashes in U.S. territory, consular officers must be notified.

These are mutual obligations that also apply to foreign authorities when they arrest or detain U.S. citizens abroad. In general, you should treat a foreign national as you would want a U.S. citizen to be treated in a similar situation in a foreign country. This means prompt and courteous compliance with the above requirements.

B. STEPS TO FOLLOW WHEN A FOREIGN NATIONAL IS ARRESTED OR DETAINED

1. DETERMINE THE FOREIGN NATIONAL'S COUNTRY OF NATIONALITY. IN THE ABSENCE OF OTHER INFORMATION, ASSUME THIS IS THE COUNTRY ON WHOSE PASSPORT OR OTHER TRAVEL DOCUMENT THE FOREIGN NATIONAL IS TRAVELING.
2. IF THE FOREIGN NATIONAL'S COUNTRY IS NOT ON THE LIST OF "MANDATORY NOTIFICATION" ("LIST") COUNTRIES AND JURISDICTIONS (SEE PAGE 2 FOR THE LIST):
 - Inform the foreign national, without delay, that he or she may have his or her consular officers notified of the arrest or detention and may communicate with them.
 - If the foreign national requests that his or her consular officers be notified, notify the nearest embassy or consulate of the foreign national's country without delay. Foreign embassy and consulate phone numbers, fax numbers and email addresses can be found on the Department of State's web site at travel.state.gov/CNA.
 - Forward any communication from the foreign national to his or her consular officers without delay.
3. IF THE FOREIGN NATIONAL'S COUNTRY IS ON THE LIST OF "MANDATORY NOTIFICATION" ("LIST") COUNTRIES:



- Notify that country's nearest embassy or consulate, without delay, of the arrest or detention. Phone numbers, fax numbers and email addresses can be found on the Department of State's web site at travel.state.gov/CNA.
- Tell the foreign national that you are making this notification and inform him or her, without delay that he or she may communicate with his or her consular officers.
- Forward any communication from the foreign national to his or her consular officers without delay.

4. KEEP A WRITTEN RECORD OF:

- What information you provided to the foreign national and when.
- The foreign national's requests, if any.
- Whether you notified consular officers and, if so, the date and time of notification and the means you used to notify them (e.g., fax, phone or email). If you used fax to notify the consular officers, you should keep the fax confirmation sheet in your records. If you used email to notify the consular officers, you should retain the sent email in your records.
- Any other relevant actions taken.

C. MANDATORY NOTIFICATION COUNTRIES ("LIST" COUNTRIES)

Albania	Ghana	Saint Lucia
Algeria	Grenada	Saint Vincent and the
Antigua and Barbuda	Guyana	Grenadines
Armenia	Hungary	Seychelles
Azerbaijan	Jamaica	Sierra Leone
Bahamas	Kazakhstan	Singapore
Barbados	Kiribati	Slovakia
Belarus	Kuwait	Tajikistan
Belize	Kyrgyzstan	Tanzania
Brunei	Malaysia	Tonga
Bulgaria	Malta	Trinidad and Tobago
China (including Macao and	Mauritius	Tunisia
Hong Kong)	Moldova	Turkmenistan
Costa Rica	Mongolia	Tuvalu
Cyprus	Nigeria	Ukraine
Czech Republic	Philippines	United Kingdom
Dominica	Poland	Uzbekistan
Fiji	Romania	Zambia
Gambia	Russia	Zimbabwe
Georgia	Saint Kitts and Nevis	

This information is taken from the United States Department of State Consular Notification and Access Manual which can be found on the "P" drive under "MOP-Current" Reference Folder or at:
https://travel.state.gov/content/dam/travel/CNA/trainingresources/CNA_Manual_4th_Edition_August2016.pdf

Forms, as well as phone numbers and fax numbers for the individual consulates and other information can be found at:

<https://travel.state.gov/content/travel/en/consularnotification.html>

V. Social Support, Referral and Advocacy Organizations

- A. **Organization:** Advocates for Basic Legal Equality, Inc. (ABLE)
Project/Service: Immigration Legal Assistance Program



Address: 333 W. First Street, Suite 500B, Dayton, OH 45402

Website: www.ablelaw.org

Contact: Jessica A. Ramos, 1-800-837-0814

ABLE's Immigration Legal Assistance Program provides high quality legal assistance and representation to low-income individuals with or without immigration documentation. Our efforts focus on stabilizing an individual's immigration status, as well as assistance in filing the appropriate paperwork either to remain in the United States with their families or to bring their families to the United States. In addition, our advocates provide representation in court to those facing possible removal or deportation. Services are provided in both English and Spanish. Other languages can be accommodated as needed. The Immigration Legal Assistance Program staff provide services specifically to those who live within ABLE's 32-county service area and who earn less than 300 percent of the Federal Poverty Guidelines.

- B. Organization:** Advocates for Basic Legal Equality, Inc. (ABLE)
Project/Service: Migrant Farmworker and Immigration Program
Address: 333 W. First Street, Suite 500B, Dayton, OH 45402
Website: www.ablelaw.org; www.legalaidline.org
Contact: Jessica A. Ramos, 1-800-837-0814; Legal Aid Line: 1-888-534-1432

Advocates for Basic Legal Equality, Inc. (ABLE) is a non-profit regional law firm that provides high quality legal assistance in civil matters to help eligible low-income individuals and groups in western Ohio achieve self reliance, and equal justice and economic opportunity. ABLE serves 32 northwest and west central Ohio counties. ABLE's Migrant Farmworker Program serves all 88 Ohio counties. ABLE offices are located in Dayton and Toledo.

- C. Organization:** Ahiska Turkish American Community Center
Project/Service: ESL Classes/Nutrition Classes
Address: 2324 Stanley Ave, Dayton OH 45404
Website: www.ataccdayton.org
Contact: Rustam Aziz, r.aziz@ataccdayton.org, info@ataccdayton.org, 937-760-8029

The Ahiska Turkish American Community Center offers English as Second Language (ESL) classes for the general public. Also, in Partnership with Ohio State University's Extension Office, they offer a free series of nutrition classes that instruct residents on how to eat healthier. Classes are informal and provide students with tools to take home at the end of each meeting. Students receive a graduation certificate from Ohio State University Extension upon completion of the eight week program.

- D. Organization:** American Friends Service Committee (AFSC)
Project/Service: Dayton Project Voice
Address: 915 Salem Avenue, Dayton, OH. 45406
Website: www.afsc.org; www.facebook.com/afscdayton
Contact: Dr. Migwe Kimemia, mkimemia@afsc.org, 937-279-9668 (ext. 106)

The main goal of the Dayton Project Voice is to create a culture of friendship and hospitality for immigrants in Greater Dayton. The program has three strategic objectives: 1) Building capacity for transformational leadership among African immigrants in Greater Dayton; 2) Empowering African immigrants to lift up their voices for peaceful change in their communities and countries of origin; and 3) Creating awareness about African immigrants' socio-cultural and economic contributions to the Greater Dayton community. The program activities include: transformational leadership development workshops; Community issues forums; Dayton African Youth Soccer Tournament; African Diaspora Dialogue; and Public policy advocacy.

- E. Organization:** Burundian Cultural and Educational Association
Website: www.bceaus.org; www.facebook.com/bcea.burundi
Contact: Dieudonne Nsabimana, bceassociation@yahoo.com, (937) 251-6765

Our vision is to strengthen our community through education, collaboration, and cultural exchange. We are promoting self sufficiency and advocacy within the African immigrant communities. We also seek to forge positive relationships with the larger Dayton community. Please visit our website or email us for more information.



- F. **Organization:** East End Community Services
Project/Service: Latino Family Advocacy
Address: 624 Xenia Ave Dayton, OH 45410
Website: www.east-end.org/latino.htm
Contact: Alejandra Espino, aespino@east-end.org, 937-259-1898

Case management, advocacy and other supportive services are provided by East End Community Services to help Latino citizens who are living in Dayton and Montgomery County. Latino Family Advocacy assists individuals with accessing needed community resources and agencies as well as explaining how various processes work, help is provided in Spanish. Assistance offered might include: how to access public health insurance for children, how to register for school, or resources to secure housing, food or clothing as needed. Persons who are eligible to work in the United States are also referred to employment services within the agency or other programs.

Individuals are also connected to resources to help with specific immigration issues. The assistance provided includes help with accessing visual aids for those populations through Prevent Blindness. The services are free and open to anyone, although the targeted population is persons who are at, or below, 200% of the federal poverty level. Persons who need services may call at the main number to set up an appointment.

- G. **Organization:** Hispanic Catholic Ministries
Project/Service: Latino Family Advocacy
Address: 310 Allen St., Dayton, OH 45410
Website: <http://www.catholiccincinnati.org>
Contact: Sr. Maria Stacy, mstacy@catholiccincinnati.org, 937-258-1309

To welcome the incoming Hispanic population in the Dayton and northern areas of the archdiocese of Cincinnati; to provide networking to facilitate their living here and particularly to provide religious services to the Catholic Hispanic immigrant community.

- H. Latino Connection - Website: <http://latinodayton.org/community.html>

I. Victim Advocates

1. Municipal Prosecutor's Office - Victim's Advocate

The Victim Assistance Division is a support and advocacy program for victims of violent misdemeanor crimes. Services include: an understanding of the criminal justice system, assistance in speaking or communicating with prosecutors, court accompaniment, safety planning, referrals to social service agencies, VINE and crime victim compensation information. The goals of the program include: informing victims of their rights under the Ohio Victims Rights Law, lessening the trauma suffered by victims, increasing resources available to crime victims, increasing victim participation in the criminal justice system, and making the justice system aware of the needs and rights of crime victims in the community.

Phone (937) 333-4400

Hours - 8:00 am – 5:00 pm

Domestic violence cases are handled by Artemis House; however, the victim must contact them before they provide assistance.

Phone: (937) 222-SAFE (7233)

24 Hour Hotline

2. Montgomery County Prosecutor's Office – Victim Witness Division

The Victim/Witness Division is a section of the Montgomery County Prosecutor's Office designed to help those individuals who have been a victim or witness of a violent crime.



The Victim/Witness Division provides 24-hour crisis-intervention, support and informational services to those affected by violent crime. The Advocates specialize in cases of sexual assault/abuse and homicide; however, they offer a variety of services to other victims and witnesses as well. The goal of the Division is to help victims and witnesses understand their rights and responsibilities so that they can make intelligent choices about what is best for them.

The Victim Advocates are dedicated to providing emotional support, advocacy and assistance following the tragic death of a loved one. Reconstruction of a meaningful and functional life can be facilitated by such intervention.

Phone: (937) 225-5623

VI. Language Considerations – Refer to General Order 2.02-1 –Section II.

Appendix A





Appendix B

OMB No. 1615-0104; Expires 07/31/2012

I-918 Supplement B,**U Nonimmigrant Status Certification**Department of Homeland Security
U.S. Citizenship and Immigration Services**START HERE - Please type or print in black ink.****Part 1. Victim information.**

Family Name	Given Name	Middle Name
<input type="text"/>	<input type="text"/>	<input type="text"/>
Other Names Used (Include maiden name/nickname)		
<input type="text"/>		
Date of Birth (mm/dd/yyyy)	Gender	
<input type="text"/>	<input type="checkbox"/> Male <input type="checkbox"/> Female	

Part 2. Agency information.

Name of Certifying Agency		
<input type="text"/>		
Name of Certifying Official	Title and Division/Office of Certifying Official	
<input type="text"/>	<input type="text"/>	
Name of Head of Certifying Agency		
<input type="text"/>		
Agency Address - Street Number and Name		Suite #
<input type="text"/>		<input type="text"/>
City	State/Province	Zip/Postal Code
<input type="text"/>	<input type="text"/>	<input type="text"/>
Daytime Phone # (with area code and/or extension)		Fax # (with area code)
<input type="text"/>		<input type="text"/>
Agency Type		
<input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Local		
Case Status		
<input type="checkbox"/> On-going <input type="checkbox"/> Completed <input type="checkbox"/> Other: _____		
Certifying Agency Category		
<input type="checkbox"/> Judge <input type="checkbox"/> Law Enforcement <input type="checkbox"/> Prosecutor <input type="checkbox"/> Other: _____		
Case Number	FBI # or SID # (if applicable)	
<input type="text"/>	<input type="text"/>	

For USCIS Use Only.

Returned	Receipt
Date	
Date	
Resubmitted	
Date	
Date	
Reloc Sent	
Date	
Date	Remarks
Reloc Rec'd	
Date	
Date	

Part 3. Criminal acts.

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

- | | | | |
|--|---|---|---|
| <input type="checkbox"/> Abduction | <input type="checkbox"/> Female Genital Mutilation | <input type="checkbox"/> Obstruction of Justice | <input type="checkbox"/> Slave Trade |
| <input type="checkbox"/> Abusive Sexual Contact | <input type="checkbox"/> Hostage | <input type="checkbox"/> Peonage | <input type="checkbox"/> Torture |
| <input type="checkbox"/> Blackmail | <input type="checkbox"/> Incest | <input type="checkbox"/> Perjury | <input type="checkbox"/> Trafficking |
| <input type="checkbox"/> Domestic Violence | <input type="checkbox"/> Involuntary Servitude | <input type="checkbox"/> Prostitution | <input type="checkbox"/> Unlawful Criminal Restraint |
| <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"/> Manslaughter | <input type="checkbox"/> Sexual Assault | <input type="checkbox"/> Related Crime(s) |
| <input type="checkbox"/> Felonious Assault | <input type="checkbox"/> Murder | <input type="checkbox"/> Sexual Exploitation | <input type="checkbox"/> Other: (If more space needed, attach separate sheet of paper.) |
| <input type="checkbox"/> Attempt to commit any of the named crimes | <input type="checkbox"/> Conspiracy to commit any of the named crimes | <input type="checkbox"/> Solicitation to commit any of the named crimes | <input type="text"/> |



Form I-918 Supplement B (Rev. 11/23/10) Y

**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.
-

Part 4. Helpfulness of the victim.

The victim (or parent, guardian or next friend, if the victim is under the age of 16, incompetent or incapacitated.):

1. Possesses 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 limitation.) (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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Part 4. Helpfulness of the victim. (Continued.)

5. Other, please specify.

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 sheet(s) of paper if necessary.)*

Full Name	Relationship	Involvement


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 nonimmigrant status certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual noted 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 promises regarding the above victim's ability to obtain a visa from the U.S. Citizenship and Immigration Services, 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. 11/23/10) Y Page 3

DIRECTIVE 9-2017	DAYTON POLICE DEPARTMENT EXECUTIVE ORDER		
EFFECTIVE April 5, 2017 REVISED	Richard S. Biehl Director and Chief of Police		PAGES 1
	GENERAL ORDER:		
RESCINDS	SECTION: All		Outside Agency Contacts

If a state or federal-level agency is contacted regarding potential criminal or illegal activity affecting their jurisdiction or area of responsibilities; or if an arrest is made and a state or federal agency is contacted, an appropriate FIC will be made in MIS. The "Outside Agency Involved" flag should be marked as "Y/Yes" and the agency contacted listed under the "Agency Name" field.

- For any Misdemeanor arrests, a police sergeant or above will be notified. The supervisor notified will be listed in the narrative.
- For any Felony arrests, a police lieutenant or above will be notified. The member of command staff notified will be listed in the narrative.

This is not required for existing multi-agency task forces or detectives assigned to existing relationships with outside state or federal agencies.

Arrests made only for traffic-related offenses and where Ohio Highway Patrol is the only state agency involved, may be handled the same as with other local agencies below.

The outside agency fields are also to be used any time an officer has contact with an outside municipal, county, or other local agency and provides assistance or takes police action that is not documented elsewhere. Examples include, but are not limited to:

- Arrests where the suspect is turned over to an outside agency for booking and transport
- When an officer is dispatched to attempt to locate a suspect vehicle, or contact a vehicle or property owner, victim, or witness or person for another jurisdiction related to a crime in their jurisdiction.
- Dayton officers assist a neighboring agency and the contact develops information that is potentially useful for other Dayton officers.

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[FIC-20] INTEL / FIELD INTERVIEW CARD DATE: 03/01/2017
TYPE: WRG WARNINGS SUBTYPE: TRS TRESPASS
SSN.: 111-11-1111 NAME.: DOE, JOHN
OLN.: 121212121212 ALIAS: DOE BOY
HAIR: BRO BROWN R/S/E: W/M/N DOB: 01/01/1990 AGE: 27 HGT/WGT: 6-00/128
EYE.: BLU BLUE VETRN: 0 MENTAL HLTH: N PATTERN#:
DATE: 03/01/2017 @ 0730 ENTER: 03/01/2017 22347 LACHEY, TOM JUR: DA
OUTSIDE AGENCY INVOLVED: Y AGENCY NAME: MCSO
INTERVIEW ADDR: 4 S MAIN ST APT:
CROSS STREET: ORC-RCGO.:
-----NARRATIVE-----
TRESPASSED FROM RTA FOR FIGHTING WITH
BUS DRIVER
RESIDENCE ADDR: 140 S MAIN
CITY/ST: DAYTON OH ZIP: 45402- TELE:
SCHOOL/GANG: EMPLOYER:
-----VEHICLE-----
LIC #: ABC123 OH
VIN.: ABC123IU900LI8
MAKE.: CHEV CHEVROLET
MODEL: S10 S10
BODY.: 2D 2 DOOR
COLOR: BLK/BLK MODEL YR: 1994

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2007 Ohio Op. Atty. Gen. 2-300 (Ohio A.G.), 2007 Ohio Op. Atty. Gen. No. 2007-029 (Ohio A.G.), 2007 WL 2700588 (Ohio A.G.)

Office of the Attorney General

State of Ohio
Opinion No. 2007-029
September 6, 2007

SYLLABUS

*1 1. For the purpose of carrying out his duties under R.C. 311.07 and R.C. 311.08, a county sheriff may enter into a written agreement with the United States Immigration and Customs Enforcement Office or the United States Department of Homeland Security under 8 U.S.C. § 1357(g) whereby deputy sheriffs are empowered to perform a function of an immigration officer in relation to the enforcement of the criminal provisions of federal immigration law.

2. Under Ohio law, a county sheriff may not enter into a written agreement with the United States Immigration and Customs Enforcement Office or the United States Department of Homeland Security under 8 U.S.C. § 1357(g) whereby deputy sheriffs are empowered to perform a function of an immigration officer in relation to the enforcement of the civil provisions of federal immigration law.

The Honorable Robin N. Piper
Butler County Prosecuting Attorney
Government Services Center, 11th Floor
P.O. Box 515
315 High Street
Hamilton, Ohio 45012-0515

Dear Prosecutor Piper:

You have requested an opinion concerning the authority of a county sheriff to enter into a written agreement with federal officials to enforce the criminal and civil provisions of federal immigration law. Specifically, you ask the following question:

Does R.C. 311.07 or R.C. 311.08 authorize a county sheriff to enter into a written agreement with the United States Immigration and Customs Enforcement Office or the United States Department of Homeland Security under 8 U.S.C. § 1357(g) whereby deputy sheriffs are empowered to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens?

For the reasons that follow, we conclude that, for the purpose of carrying out his duties under R.C. 311.07 and R.C. 311.08, a county sheriff may enter into a written agreement with the United States Immigration and Customs Enforcement Office (USICEO) or the United States Department of Homeland Security (USDHS) under 8 U.S.C. § 1357(g) with regard to the enforcement of the criminal provisions of federal immigration law. We conclude, further, that, under Ohio law, a county sheriff may not enter into such a written agreement with regard to the enforcement of the civil provisions of federal immigration law.

Federal Immigration Law

The United States Congress holds a plenary and exclusive power to control and regulate immigration. *See generally* U.S. Const. art. I, § 8, cl. 4 (the United States Congress may “establish a uniform Rule of Naturalization”); *Hampton v. Mow Sun Wong*, 426 U.S. 88, 101 n.21 (1976) (“the authority to control immigration is vested solely in the Federal Government, rather than the States”); *De Canas v. Bica*, 424 U.S. 351, 354 (1976) (the “[p]ower to regulate immigration is unquestionably exclusively a federal power”). The United States Congress has exercised this power by enacting 8 U.S.C. §§ 1101, *et seq.*, which are referred to as the Immigration and Nationality Act. *See generally* *Takahashi v. Fish & Game Comm’n*, 334 U.S. 410, 419 (1948) (“8 U.S.C. §§ 1101, *et seq.* establishes “a comprehensive legislative plan for the nationwide control and regulation of immigration and naturalization”).

*2 Federal law sets forth detailed procedures for granting immigrant status, admission qualifications for aliens,¹ procedures for detaining, deporting, and removing aliens, and the manner in which aliens may become naturalized citizens of the United States. The United States Congress has also empowered the Attorney General of the United States to enforce the criminal and

civil provisions of federal **immigration** law. *See, e.g.,* 8 U.S.C. § 1103; 8 U.S.C. § 1226; 8 U.S.C. § 1231; 8 U.S.C. § 1357. In order to enforce these provisions of federal **immigration** law, the Attorney General of the United States may cooperate with, or enlist the aid of, state and local law enforcement officials in various ways. *See, e.g.,* 8 U.S.C. § 1103(a)(10); 8 U.S.C. § 1252c; 8 U.S.C. § 1324(c); 8 U.S.C. § 1357(g); 28 C.F.R. § 65.83; 28 C.F.R. § 65.84. One method used by the Attorney General of the United States authorizes state and local officials to enter into written agreements with the Attorney General of the United States whereby state and local law enforcement officers are empowered to perform a function² of an **immigration** officer in relation to the investigation, apprehension, or detention of aliens who violate a criminal or civil provision of federal **immigration** law:

(1) Notwithstanding section 1342 of title 31, United States Code, the Attorney General³ may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the Attorney General to be qualified to perform a function of an **immigration** officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and *to the extent consistent with State and local law*.

1 .

(5) With respect to each officer or employee of a State or political subdivision who is authorized to perform a function under this subsection, the specific powers and duties that may be, or are required to be, exercised or performed by the individual, the duration of the authority of the individual, and the position of the agency of the Attorney General who is required to supervise and direct the individual, shall be set forth in a written agreement between the Attorney General and the State or political subdivision. (Footnote and emphasis added.)

8 U.S.C. § 1357(g).

8 U.S.C. § 1357(g) thus authorizes a written agreement between a county sheriff and USICEO or USDHS whereby deputy sheriffs may perform a function of an **immigration** officer in relation to the enforcement of the criminal and civil provisions of federal **immigration** law, provided such an agreement is consistent with state law.

Powers and Duties of a County Sheriff under Ohio Law

*³ Let us now turn to your specific question, which asks whether R.C. 311.07 or R.C. 311.08 authorizes a county sheriff to enter into a written agreement with USICEO or USDHS under 8 U.S.C. § 1357(g) whereby deputy sheriffs are empowered to perform a function of an **immigration** officer in relation to the investigation, apprehension, or detention of aliens who violate a criminal or civil provision of federal **immigration** law. It is well established that a county sheriff, as a creature of statute, *see* R.C. 311.01, has only those powers expressly provided by statute or as may exist by necessary implication. *United States v. Laub Baking Co.*, 283 F. Supp. 217, 220 (N.D. Ohio 1968); 1987 Op. Atty. Gen. No. 87-099 at 2-657. In accordance with this principle, a county sheriff may not enter into a written agreement with USICEO or USDHS under 8 U.S.C. § 1357(g) to enforce the criminal and civil provisions of federal **immigration** law unless R.C. 311.07, R.C. 311.08, or another provision of state law expressly or impliedly authorizes the county sheriff to do so.⁴

No language in R.C. 311.07 or R.C. 311.08 expressly authorizes a county sheriff to enter into a written agreement with USICEO or USDHS under 8 U.S.C. § 1357(g) whereby deputy sheriffs are empowered to perform a function of an **immigration** officer in relation to the investigation, apprehension, or detention of aliens who violate a criminal or civil provision of federal **immigration** law. *Cf.* R.C. 311.29(A) (a county sheriff may enter into contracts with political subdivisions, authorities, or counties of this state pursuant to which the sheriff undertakes and is authorized by the contracting subdivision, authority, or county to perform any police function, exercise any police power, or render any police service in behalf of the contracting subdivision, authority, or county, or its legislative authority, that the subdivision, authority, or county, or its legislative authority, may perform, exercise, or render). A county sheriff does, however, have explicit authority to preserve the public peace within the county.

R.C. 311.07, which sets forth the general powers and duties of a county sheriff, provides, in relevant part:

Each sheriff shall preserve the public peace and cause all persons guilty of any breach of the peace, within the sheriff's knowledge or view, to enter into recognizance with sureties to keep the peace and to appear at the succeeding term of the court of common pleas, and the sheriff shall commit such persons to jail in case they refuse to do so. In the execution of official duties of the sheriff, the sheriff may call to the sheriff's aid such persons or power of the county as is necessary.

R.C. 311.07(A).

R.C. 311.08(A) declares, further, that a county sheriff is required to exercise the powers conferred and perform the duties enjoined upon him by statute and by the common law. As explained by the Ohio Supreme Court, the common law requires a county sheriff to preserve the peace in his bailiwick or county. To this end he is the first man within the county, and it is incident to his office that he apprehend and commit to prison all persons who break or attempt to break the peace. *State ex rel. McLain*, 58 Ohio St. 313, 320, 50 N.E. 907 (1898); accord *United States v. Laub Baking Co.*, 283 F. Supp. at 220. Therefore, under R.C. 311.07(A) and R.C. 311.08(A), a county sheriff has the general duty to preserve the public peace and may call to his aid such power of the county as is necessary to carry out his duty to preserve the public peace. 1986 Op. Atty. Gen. No. 86-023 at 2-120.

Authority of a County Sheriff to Enforce the Criminal Provisions of Federal Immigration Law Pursuant to a Written Agreement with USICEO or USDHS

*4 When examining a county sheriff's authority to preserve the public peace in relation to federal immigration law it is crucial to distinguish between civil and criminal violations of federal immigration law. The United States Congress has provided different procedures by which the criminal and civil provisions of federal immigration law are to be enforced. 2007 Op. Atty. Gen. No. 2007-018, slip op. at 1 n.1. In particular, civil violations are processed administratively, *see, e.g.*, 8 U.S.C. § 1227; 8 U.S.C. § 1253(c); 8 U.S.C. § 1324d, while criminal violations are prosecuted in federal courts, *see, e.g.*, 8 U.S.C. § 1253(a), (b); 8 U.S.C. § 1324; 8 U.S.C. § 1325(a), (c); 8 U.S.C. § 1326. 2007 Op. Atty. Gen. No. 2007-018, slip op. at 1 n.1. We will, therefore, first consider whether a county sheriff's authority to preserve the public peace includes the power to enforce the criminal provisions of federal immigration law pursuant to a written agreement with USICEO or USDHS, then whether this authority includes the power to enforce the civil provisions of federal immigration law pursuant to a written agreement with USICEO or USDHS.

As stated in 2007 Op. Atty. Gen. No. 2007-018, slip op. at 5-6, a county sheriff's duty to preserve the public peace includes the concomitant authority to arrest and detain aliens who violate a criminal provision of federal immigration law:

The term "peace" is not defined for purposes of R.C. 311.07 or R.C. 311.08. This term, therefore, is accorded its common, ordinary meaning. R.C. 1.42. *Black's Law Dictionary* 1166 (8th ed. 2004) defines "peace" as "[a] state of public tranquility; freedom from civil disturbance or hostility." Accord *City of Wellsville v. O'Connor*, 1 Ohio C.C. (n.s.) 253, 256, 14 Ohio Cir. Dec. 689 (Cir. Ct. Columbiana County 1903). Moreover, the Ohio Supreme Court has held that the General Assembly deems the commission of a criminal offense a breach of the peace inasmuch as a violation of the criminal laws disturbs the tranquility and dignity of the state. As explained in *City of Akron v. Mingo*, 169 Ohio St. 511, 515-16, 160 N.E.2d 225 (1959), which interpreted the exceptions to immunity from arrest conferred under R.C. 2331.11-.14:

The statute itself (Section 2331.13) limits the immunity so that it shall not extend to cases of treason, felony, or breach of the peace. What then is meant by breach of the peace? Does it include all criminal offenses?

It is quite pertinent that the statutes of Ohio, in Section 2941.06, Revised Code, provide the form to be used for either indictment or information, which would include all felonies and misdemeanors presented by a grand jury, and contain the words, "contrary to the form of the statute in such case made and provided, and against the peace and dignity of the state of Ohio."

It is obvious that, by adoption of this form, the General Assembly considered all criminal offenses to be against the peace and dignity of the state of Ohio or a breach of the peace. (í [E]mphasis added [and footnote omitted].)

*5 See generally *Williamson v. United States*, 207 U.S. 425 (1908) (the phrase "breach of the peace" includes all crimes and misdemeanors of every character).

Insofar as the language of R.C. 2941.06 is substantially the same as when the Ohio Supreme Court decided *Mingo*,⁵ the court's reasoning remains persuasive. Accordingly, a county sheriff's duty to preserve the public peace includes the concomitant authority to arrest and detain without a warrant any person who commits a criminal offense.

An alien who violates certain provisions of federal immigration law may be subject to criminal prosecution. For example, under 8 U.S.C. § 1304(e), failure to carry a certificate of alien registration or alien registration receipt card may subject an alien to criminal sanctions. 8 U.S.C. § 1306 also authorizes criminal penalties for aliens who fail to register and be fingerprinted, notify the Attorney General of a change in address, make fraudulent statements on an application for registration, or counterfeit any information contained on a certificate of alien registration or alien registration receipt card. In addition, 8 U.S.C. § 1325 authorizes the imposition of criminal penalties when an alien has entered or attempted to enter the United States at any time or place other than as designated by immigration officials, eluded examination or inspection by immigration officials, or attempted to enter or obtained entry to the United States by a willfully false or misleading

representation or the willful concealment of a material fact, while 8 U.S.C. § 1326 makes it a criminal violation for an alien who is under an outstanding order of exclusion, deportation, or removal to reenter the United States.

Because certain provisions of federal immigration law constitute the commission of a criminal offense when violated, violations of these provisions are breaches of the public peace for purposes of R.C. 311.07(A) and R.C. 311.08(A). Therefore, under R.C. 311.07(A) and R.C. 311.08(A), a county sheriff may arrest and detain an alien without a warrant when evidence establishes probable cause to believe that the alien has violated a criminal provision of federal immigration law. (Footnote added and footnote omitted.)

Because a county sheriff's statutory duty to preserve the public peace authorizes the sheriff to enforce the criminal provisions of federal immigration law, the sheriff may exercise a reasonable discretion in determining the manner in which he will exercise such power. 1987 Op. Atty. Gen. No. 87-099 at 2-658; 1986 Op. Atty. Gen. No. 86-023 at 2-121. See generally *Fed. Gas & Fuel Co. v. City of Columbus*, 96 Ohio St. 530, 541, 118 N.E. 103 (1917) (a public officer is naturally and necessarily vested with a wide discretion to do such incidental things as are reasonably and manifestly in the public's interests to perform the act, provided such things are not prohibited by statute); *State ex rel. Hunt v. Hildebrandt*, 93 Ohio St. 1, 12, 112 N.E. 138 (1915) (an officer who is required to perform a duty has implied authority to determine, in the exercise of a fair and impartial official discretion, the manner and method of doing the thing commanded; otherwise, full directions would have been given the officer or the duty would not have been imposed upon him), *aff'd*, 241 U.S. 565 (1916).

*6 The General Assembly has in general terms authorized a county sheriff to enforce the criminal provisions of federal immigration law and has not limited the manner in which the sheriff may enforce such provisions. Under 8 U.S.C. § 1357(g), federal officials are explicitly permitted to enter into a written agreement so as to provide state and local law enforcement officials with assistance in enforcing the criminal provisions of federal immigration law. Such assistance is in the form of providing state and local law enforcement officials with access to federal property or facilities, 8 U.S.C. § 1357(g)(4), and providing supervision and training regarding the enforcement of the criminal provisions of federal immigration law, 8 U.S.C. § 1357(g)(2) and (3). Federal assistance in enforcing the criminal provisions of federal immigration law has as its purpose the preservation of the public peace. Thus, to the extent that an agreement entered into under 8 U.S.C. § 1357(g) is an appropriate manner by which a county sheriff may obtain assistance in enforcing the criminal provisions of federal immigration law, a county sheriff does not abuse his discretion in entering into an agreement under 8 U.S.C. § 1357(g) with federal immigration officials. See generally 1983 Op. Atty. Gen. No. 83-064 at 2-269 (since by statute the joint boards of county commissioners may engage in real estate transactions and construction agreements in order to organize and build a multicounty detention and treatment facility, the joint boards must necessarily and reasonably have the ability to employ legal counsel to advise them with respect to such matters (citations omitted)); 1928 Op. Atty. Gen. No. 2955, vol. IV, p. 2736, at 2740 (finding implied authority for a township to obtain fire services by contract with a neighboring municipal corporation and stating: "The delegation of a power to accomplish a certain end, necessarily carries with it the power to do all things necessary to consummate that purpose"). Moreover, the General Assembly has expressed an intent that state and local law enforcement officers cooperate with federal immigration officials in the enforcement of the criminal provisions of federal immigration law. R.C. 9.63(A) requires local law enforcement officers, including county sheriffs, to comply with any lawful request for assistance made by federal immigration officials while carrying out a federal immigration investigation. R.C. 9.63(A) thus demonstrates an intent on the part of the General Assembly that a county sheriff should cooperate with federal immigration officials in the enforcement of the criminal provisions of federal immigration law. See note four, *supra*. Such cooperation may include entering into an agreement under 8 U.S.C. § 1357(g) whereby a county sheriff assists federal immigration officials in enforcing the criminal provisions of federal immigration law. In light of the language of R.C. 9.63(A) and that agreements entered into under 8 U.S.C. § 1357(g) are used to assist state and local law enforcement officers in the enforcement of the criminal provisions of federal immigration law, it appears that it is reasonable for a county sheriff to enter into a written agreement under 8 U.S.C. § 1357(g) to enforce the criminal provisions of federal immigration law for the purpose of preserving the public peace in the county. Accordingly, for the purpose of carrying out his duties under R.C. 311.07 and R.C. 311.08, a county sheriff may enter into a written agreement with USICEO or USDHS under 8 U.S.C. § 1357(g) whereby deputy sheriffs are empowered to perform a function of an immigration officer in relation to the enforcement of the criminal provisions of federal immigration law.⁶

Authority of a County Sheriff to Enforce the Civil Provisions of Federal Immigration Law Pursuant to a Written Agreement with USICEO or USDHS

*7 We shall now consider whether a county sheriff's duty to preserve the public peace includes the authority to enforce the civil provisions of federal immigration law, and, if so, whether a county sheriff may enter into a written agreement under 8 U.S.C. § 1357(g) whereby deputy sheriffs are empowered to perform a function of an immigration officer in relation to the

enforcement of the civil provisions of federal **immigration** law.

2007 Op. Atty Gen. No. 2007-018 determined that a county sheriff may not arrest and detain an alien for a violation of a civil provision of federal **immigration** law. This conclusion followed from the Ohio Supreme Court's holding in *City of Akron v. Mingo*, 169 Ohio St. 511, 160 N.E.2d 225 (1959). In that case, the court determined that the immunity from arrest conferred under R.C. 2331.11-.14 applies only to civil arrests, not criminal arrests. In making this distinction, the court stated that, pursuant to R.C. 2331.13,7 the immunity conferred under R.C. 2331.11-.14 does not extend to cases of treason, felony, or breach of the peace. The court then concluded, further, that the term "breach of the peace" historically connotes violations of criminal laws. Thus, the court recognized that a violation of a civil law does not constitute a breach of the peace, as that term is commonly understood.

Moreover, the Ohio Supreme Court's view of what constitutes a breach of the peace accords with that of the United States Supreme Court. In several cases, the Court has indicated that breaches of the peace include violations of criminal laws, but not civil laws. *Gravel v. United States*, 408 U.S. 606, 613-14 (1972); *Long v. Ansell*, 293 U.S. 76, 82-83 (1934); *Williamson v. United States*, 207 U.S. 425, 442-46 (1908). See generally Akhil Reed Amar & Neal Kumar Katyal, Commentary, *Executive Privileges and Immunities: The Nixon and Clinton Cases*, 108 Harv. L. Rev. 701, 710 (1995) ("[a]s Article I [of the United States Constitution] makes clear, members of Congress are privileged from arrest while Congress is in session. The Framers intended 'Arrest' in this Clause to mean civil arrest, not criminal arrest. The Arrest Clause explicitly exempts cases of 'Treason, Felony and Breach of the Peace' and both the clear language of Blackstone's *Commentaries* and English debates well known to the Framers stressed that this exempting phrase was a term of art encompassing all crimes").

In light of the case law holding that a violation of a civil law does not constitute a breach of the peace, as that term is commonly understood, a county sheriff's duty to preserve the peace must be interpreted to apply only to the enforcement of criminal laws, rather than civil laws. See generally R.C. 1.42 ("[w]ords and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly"); *Brenneman v. R.M.I., Co.*, 70 Ohio St. 3d 460, 464, 639 N.E.2d 425 (1994) ("[i]t is a general axiom of statutory construction that once words have acquired a settled meaning, that same meaning will be applied to a subsequent statute on a similar or analogous subject"). This means that a county sheriff's duty to preserve the public peace under R.C. 311.07(A) and R.C. 311.08(A) does not include the power to enforce the civil provisions of federal **immigration** law.⁸ Accordingly, insofar as R.C. 311.07 and R.C. 311.08 do not authorize a county sheriff to enforce the civil provisions of federal **immigration** law, it also follows that a county sheriff may not enter into a written agreement with USICEO or USDHS under 8 U.S.C. § 1357(g) whereby deputy sheriffs are empowered to perform a function of an **immigration** officer in relation to the enforcement of the civil provisions of federal **immigration** law.

Conclusions

*8 Based on the foregoing, it is my opinion, and you are hereby advised as follows:

1. For the purpose of carrying out his duties under R.C. 311.07 and R.C. 311.08, a county sheriff may enter into a written agreement with the United States **Immigration** and Customs Enforcement Office or the United States Department of Homeland Security under 8 U.S.C. § 1357(g) whereby deputy sheriffs are empowered to perform a function of an **immigration** officer in relation to the enforcement of the criminal provisions of federal **immigration** law.
2. Under Ohio law, a county sheriff may not enter into a written agreement with the United States **Immigration** and Customs Enforcement Office or the United States Department of Homeland Security under 8 U.S.C. § 1357(g) whereby deputy sheriffs are empowered to perform a function of an **immigration** officer in relation to the enforcement of the civil provisions of federal **immigration** law.

Respectfully,

Marc Dann
Attorney General

- 1 For purposes of federal **immigration** law, an "alien" is "any person not a citizen or national of the United States." 8 U.S.C. § 1101(a)(3).
- 2 Functions of an **immigration** officer that relate to the investigation, apprehension, and detention of aliens in the United States include, but are not limited to, the following:
Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without warrant?

- (1) to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States;
- (2) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, expulsion, or removal of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States;

1 ;

(4) to make arrests for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, expulsion, or removal of aliens, if he has reason to believe that the person so arrested is guilty of such felony and if there is likelihood of the person escaping before a warrant can be obtained for his arrest, but the person arrested shall be taken without unnecessary delay before the nearest available officer empowered to commit persons charged with offenses against the laws of the United States; and

(5) to make arrests?

(A) for any offense against the United States, if the offense is committed in the officer's or employee's presence, or

(B) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such felony, if the officer or employee is performing duties relating to the enforcement of the **immigration** laws at the time of the arrest and if there is a likelihood of the person escaping before a warrant can be obtained for his arrest.

8 U.S.C. § 1357(a).

3 We are unable to advise you whether the United States **Immigration** and Customs Enforcement Office (USICEO) or the United States Department of Homeland Security (USDHS) may exercise the authority granted to the Attorney General of the United States under 8 U.S.C. § 1357(g). *See generally* 1999 Op. Atty. Gen. No. 99-007 at 2-55 (the Ohio Attorney General's office is not empowered to render authoritative interpretations of federal law). It is, therefore, assumed, for the purpose of this opinion, that the officials at USICEO and USDHS have this authority.

4 You explain in your letter that R.C. 9.63(A) requires a county sheriff to comply with any lawful request for assistance made by USICEO or USDHS while carrying out a federal **immigration** investigation: Notwithstanding any law, ordinance, or collective bargaining contract to the contrary, no state or local employee shall unreasonably fail to comply with any lawful request for assistance made by any federal authorities carrying out the provisions of the USA Patriot Act, any federal **immigration** or terrorism investigation, or any executive order of the president of the United States pertaining to homeland security, to the extent that the request is consistent with the doctrine of federalism. Although the language of R.C. 9.63(A) authorizes state and local officials to comply with a lawful request for assistance made by USICEO or USDHS while carrying out a federal **immigration** investigation, it does not appear that this language is intended to authorize state or local officials to enter into written agreements with federal authorities to enforce the criminal and civil provisions of federal **immigration** law. Instead, the purpose of R.C. 9.63(A) is limited to establishing a state-wide policy that, *inter alia*, requires state and local officials to cooperate with federal **immigration** officials who request assistance during a federal **immigration** investigation. *See generally* Ohio Legislative Service Commission, 126-SB9 LSC Analysis, at 19 (final analysis) (indicating that the General Assembly enacted R.C. 9.63(A) to compel "government employee cooperation" with federal authorities during a federal **immigration** investigation). We, therefore, do not believe that R.C. 9.63(A) authorizes a county sheriff to enter into a written agreement with USICEO or USDHS under 8 U.S.C. § 1357(g) whereby deputy sheriffs are generally authorized to enforce the criminal and civil provisions of federal **immigration** law.

5 R.C. 2941.06 currently provides, in relevant part:

The jurors of the Grand Jury of the State of Ohio, within and for the body of the County aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that A.B., on the day of , at the county of aforesaid, did (here insert the name of the offense if it has one, such as murder, arson, or the like, or if a misdemeanor having no general name, insert a brief description of it as given by law) contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

6 Deputy sheriffs performing a function of an **immigration** officer in relation to the enforcement of the criminal provisions of

federal **immigration** law must comply with all applicable state, federal, and international laws meant to protect the rights of aliens. See 2007 Op. Atty. Gen. No. 2007-018, slip op. at 7-9. See generally *Gonzales v. City of Peoria*, 722 F.2d 468, 477 (9th Cir. 1983) (arrests for federal offenses can be justified by state law authorization only if the arrest procedures do not violate the federal Constitution), *overruled in part on other grounds by* *Hodgers-Durgin v. De La Vina*, 199 F.3d 1037 (9th Cir. 1999); *Farm Labor Org. Comm. v. Ohio State Highway Patrol*, 991 F. Supp. 895, 900 (N.D. Ohio 1997) (the Fourth Amendment to the United States Constitution applies to citizens and aliens alike). See generally also 8 U.S.C. § 1357(g)(2) (an agreement under this subsection shall require that an officer or employee of a State or political subdivision of a State performing a function under the agreement shall have knowledge of, and adhere to, Federal law relating to the function, and shall contain a written certification that the officers or employees performing the function under the agreement have received adequate training regarding the enforcement of relevant Federal **immigration** laws); 2007 Op. Atty. Gen. No. 2007-018, slip op. at 7 n.7 (a county sheriff who violates the rights of an alien may subject the county to liability under 42 U.S.C. § 1983).

- 7 R.C. 2331.13 provides:
[R.C. 2331.11-.14] do not extend to cases of treason, felony, or breach of the peace, nor do they privilege any person specified in such sections from being served with a summons or notice to appear. Arrests not contrary to such sections made in any place or on any river or watercourse within or bounding upon this state are lawful.
- 8 We understand that the activities that may be included within the authority of a county sheriff to preserve the public peace are not, as a general matter, amenable to precise demarcation and, as such, a sheriff may exercise a reasonable discretion in determining the manner in which he may exercise such power. 1987 Op. Atty. Gen. No. 87-099 at 2-658; 1986 Op. Atty. Gen. No. 86-023 at 2-121. It is evident, therefore, that the sheriff's duty to preserve the public peace under R.C. 311.07 [and R.C. 311.08] permits him, in the appropriate circumstances, and in the exercise of a reasonable discretion, to take those actions reasonably necessary to protect the general public welfare. 1987 Op. Atty. Gen. No. 87-099 at 2-658; see, e.g., 1997 Op. Atty. Gen. No. 97-015 (a county sheriff may, pursuant to R.C. 311.07 and R.C. 311.08, declare a snow emergency and temporarily close state roads and municipal streets within his jurisdiction when such action is reasonably necessary for the preservation of the public peace); 1987 Op. Atty. Gen. No. 87-099 (a county sheriff, pursuant to the authority conferred upon him by R.C. 311.07 and R.C. 311.08 to preserve the public peace, may order the evacuation of persons residing or otherwise situated in the vicinity of a hazardous materials accident or emergency, enter upon private property where hazardous materials are located for the purpose of extinguishing a pilot light or other ignition source, and commandeer a vehicle or other heavy equipment for use at the site of, or in conjunction with, a hazardous materials accident or emergency); 1986 Op. Atty. Gen. No. 86-023 (a county sheriff may, pursuant to R.C. 311.07 and R.C. 311.08, declare a snow emergency and temporarily close county and township roads within his jurisdiction when such action is reasonably necessary for the preservation of the public peace); 1979 Op. Atty. Gen. No. 79-027 at 2-92 (a county sheriff's duty to preserve the public peace permits him to participate in emergency rescue operations and to incur necessary transportation expenses related thereto); 1958 Op. Atty. Gen. No. 3039, p. 676 (a county sheriff's duty to preserve the public peace authorizes him to keep the public highways free of damaged automobiles and remove injured and unconscious motorists and other persons from such highways). Nevertheless, a county sheriff must act within the bounds of his statutory authority. 1987 Op. Atty. Gen. No. 87-099 at 2-660. Because courts have traditionally held that breaches of the public peace are limited to violations of criminal laws, rather than civil laws, a county sheriff may not exercise his discretion and determine that his power to preserve the public peace includes the authority to enforce the civil provisions of federal **immigration** law. See generally *Geauga County Bd. of County Comm'rs v. Geauga County Sheriff*, 2003-Ohio-7201, 2003 Ohio App. LEXIS 6508, at ¶43 (Geauga County Dec. 31, 2003) (while this court would readily agree that [the sheriff] was certainly qualified to state whether a specific act was generally related to maintaining the peace, his superior knowledge is not controlling as to the proper legal interpretation of R.C. 311.07(A)).

2007 Ohio Op. Atty. Gen. 2-174 (Ohio A.G.), 2007 Ohio Op. Atty. Gen. No. 2007-018 (Ohio A.G.), 2007 WL 1953424 (Ohio A.G.)

Office of the Attorney General

State of Ohio
Opinion No. 2007-018
June 28, 2007

SYLLABUS

*1 1. Under [R.C. 311.07\(A\)](#) and [R.C. 311.08\(A\)](#), a county sheriff may arrest and detain an alien without a warrant when evidence establishes probable cause to believe that the alien has violated a criminal provision of federal [immigration](#) law. A county sheriff may not, however, arrest and detain an alien for a violation of a civil provision of federal [immigration](#) law. (1928 Op. Atty. Gen. No. 3079, vol. IV, p. 2947, syllabus, paragraph three, overruled in part.)

2. [R.C. 341.21\(A\)](#) does not authorize a board of county commissioners to direct the county sheriff to receive into his custody aliens who are being detained by the United States [Immigration](#) and Customs Enforcement Office for deportation purposes when the aliens have not been charged with, or convicted of, a crime by the United States.

3. Under [8 C.F.R. § 287.7\(d\)](#), a county sheriff may detain an alien on the basis of a detainer issued by the United States [Immigration](#) and Customs Enforcement Office for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by federal [immigration](#) officials even though Ohio law otherwise would require that the alien be released from custody.

The Honorable Robin N. Piper
Butler County Prosecuting Attorney
Government Services Center, 11th Floor
P.O. Box 515
315 High Street
Hamilton, Ohio 45012-0515

Dear Prosecutor Piper:

You have requested an opinion concerning the authority of a county sheriff to arrest and detain aliens suspected of violating a criminal provision of federal [immigration](#) law and detain an alien on the basis of a civil detainer.¹ Specifically, you ask the following questions:

1. May a county sheriff arrest and detain an alien without a warrant when evidence establishes probable cause to believe that the alien has violated a criminal provision of federal [immigration](#) law?
2. If a county sheriff does not have the authority to arrest and detain illegal aliens without a warrant for possible criminal violations of federal [immigration](#) law, may the sheriff enter into an agreement with the Attorney General of the United States under [8 U.S.C. § 1357\(g\)](#) whereby the sheriff performs the functions of a federal [immigration](#) officer in relation to the investigation, apprehension, and detention of illegal aliens in the United States?
3. If a county sheriff does not have the authority to arrest and detain illegal aliens without a warrant for possible criminal violations of federal [immigration](#) law, may a board of county commissioners enter into an agreement with the Attorney General of the United States under [8 U.S.C. § 1357\(g\)](#) whereby the county sheriff performs the functions of a federal [immigration](#) officer in relation to the investigation, apprehension, and detention of illegal aliens in the United States?
4. Does [R.C. 341.21\(A\)](#) authorize a board of county commissioners to direct the county sheriff to receive into his custody aliens who are being detained by the United States [Immigration](#) and Customs Enforcement Office for deportation purposes when the aliens have not been charged with a crime by the United States?

*2 5. May a county sheriff detain an alien on the basis of a detainer issued by the United States [Immigration](#) and Customs Enforcement Office when Ohio law requires the alien be released from custody?

6. If a county sheriff lacks the authority under state law to detain aliens on the basis of a detainer issued by the United States [Immigration](#) and Customs Enforcement Office, may the sheriff or the board of county commissioners enter into an

agreement with the Attorney General of the United States under 8 U.S.C. § 1357(g) whereby the sheriff performs the functions of a federal **immigration** officer in relation to the investigation, apprehension, and detention of illegal aliens in the United States¹

On the basis of the analysis set forth in this opinion, we conclude that, under R.C. 311.07(A) and R.C. 311.08(A), a county sheriff may arrest and detain an alien without a warrant when evidence establishes probable cause to believe that the alien has violated a criminal provision of federal **immigration** law. A county sheriff may not, however, arrest and detain an alien for a violation of a civil provision of federal **immigration** law. We conclude, further, that R.C. 341.21(A) does not authorize a board of county commissioners to direct the county sheriff to receive into his custody aliens who are being detained by the United States **Immigration** and Customs Enforcement Office (USICEO) for deportation purposes when the aliens have not been charged with, or convicted of, a crime by the United States. Finally, we conclude that, under 8 C.F.R. § 287.7(d), a county sheriff may detain an alien on the basis of a detainer issued by USICEO for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by federal **immigration** officials even though Ohio law otherwise would require that the alien be released from custody.

Federal **Immigration** Law

Title 8 of the United States Code sets forth a comprehensive scheme governing the **immigration** of aliens² to the United States. This title establishes procedures for granting **immigrant** status, admission qualifications for aliens, procedures for detaining, deporting, and removing aliens, and the manner in which aliens may become naturalized citizens of the United States. The provisions of this title are enforced by the Attorney General of the United States. *See, e.g.,* 8 U.S.C. § 1226; 8 U.S.C. § 1231; 8 U.S.C. § 1357. In performing this function, the Attorney General of the United States cooperates with, and is aided by, state and local law enforcement officials. *See* 8 U.S.C. § 1252c; 8 U.S.C. § 1324(c); 8 U.S.C. § 1357(g). *See generally* *United States v. Vasquez-Alvarez*, 176 F.3d 1294, 1300 (10th Cir. 1999) (various federal statutes evince ða clear invitation from Congress for state and local agencies to participate in the process of enforcing federal **immigration** lawsö).³

Authority of a County Sheriff to Arrest and Detain Aliens Without a Warrant for Criminal Violations of Federal **Immigration** Law

^{*3} Let us now consider your first question, which asks whether a county sheriff may arrest and detain an alien without a warrant when evidence establishes probable cause to believe that the alien has violated a criminal provision of federal **immigration** law. No federal law prohibits a county sheriff from enforcing the criminal provisions of federal **immigration** law. *Farm Labor Org. Comm. v. Ohio State Highway Patrol*, 991 F. Supp. 895, 903 (N.D. Ohio 1997); *see Gonzales v. City of Peoria*, 722 F.2d 468, 475 (9th Cir. 1983) (federal law does not preclude local enforcement of the criminal provisions of federal **immigration** law), *overruled in part on other grounds by* *Hodgers-Durgin v. De La Vina*, 199 F.3d 1037 (9th Cir. 1999); *see also* *United States v. Vasquez-Alvarez*, 176 F.3d at 1296 (ðstate law-enforcement officers have the general authority to investigate and make arrests for violations of federal **immigration** lawsö). *See generally* *United States v. Swarovski*, 557 F.2d 40, 43-49 (2nd Cir. 1977) (noting generally that there is no overarching federal impediment to arrests by state officers for violations of federal law).

In fact, federal **immigration** law ðleaves open the possibility of local and state assistance in the enforcement of federal **immigration** laws.ö *Farm Labor Org. Comm. v. Ohio State Highway Patrol*, 991 F. Supp. at 903; *see* 8 U.S.C. § 1252c(a) (ð[n]otwithstanding any other provision of law, to the extent permitted by relevant State and local law, State and local law enforcement officials are authorized to arrest and detain an individual who?(1) is an alien illegally present in the United States; and (2) has previously been convicted of a felony in the United States and deported or left the United States after such conviction, but only after the State or local law enforcement officials obtain appropriate confirmation from the Service of the status of such individual and only for such period of time as may be required for the Service to take the individual into Federal custody for purposes of deporting or removing the alien from the United Statesö (emphasis added)); 8 U.S.C. § 1324(c) (ð[n]o officer or person shall have authority to make any arrest for a violation of any provision of this section except officers and employees of the Service designated by the Attorney General, either individually or as a member of a class, and all other officers whose duty it is to enforce criminal lawsö (emphasis added)).

We must, therefore, determine whether state law affirmatively authorizes a county sheriff to enforce the criminal provisions of federal **immigration** law. *See generally* *Farm Labor Org. Comm. v. Ohio State Highway Patrol*, 991 F. Supp. at 903 (any law enforcement officer who has a duty to enforce criminal laws may enforce the criminal prohibitions of federal **immigration** law); *United States v. Laub Baking Co.*, 283 F. Supp. 217, 220 (N.D. Ohio 1968) (a county sheriff, as a creature of statute, has only those powers expressly provided by statute or as may exist by necessary implication). *See generally also* *United States v. Vasquez-Alvarez*, 176 F.3d at 1300 (the purpose of 8 U.S.C. § 1252c is ðto displace perceived Federal limitations on the authority of state and local officers to arrest -criminally illegal aliensöð).

*4 The general powers and duties of a county sheriff are set out in [R.C. 311.07](#) and [R.C. 311.08](#). Under these statutes, the county sheriff is made the chief law enforcement officer in the county. *In re Sulzmann*, 125 Ohio St. 594, 597, 183 N.E. 531 (1932). In this capacity, a sheriff is required to do the following:

Each sheriff shall preserve the public peace and cause all persons guilty of any breach of the peace, within the sheriff's knowledge or view, to enter into recognizance with sureties to keep the peace and to appear at the succeeding term of the court of common pleas, and the sheriff shall commit such persons to jail in case they refuse to do so.

[R.C. 311.07\(A\)](#).

In addition, [R.C. 311.08\(A\)](#) requires a county sheriff to "exercise the powers conferred and perform the duties enjoined upon him by statute and by the common law." Under the common law, "[i]t is the duty of the sheriff [t]o preserve the peace in his bailiwick or county. To this end he is the first man within the county, and it is incident to his office that he apprehend and commit to prison all persons who break or attempt to break the peace." *State ex rel. McLain*, 58 OhioSt. 313, 320, 50 N.E. 907 (1898); accord *United States v. Laub Baking Co.*, 283 F. Supp. at 220. [R.C. 311.07\(A\)](#) and [R.C. 311.08\(A\)](#) thus require a county sheriff to preserve the public peace within the county by arresting and detaining persons who are guilty of any breach of the peace.

The term "peace" is not defined for purposes of [R.C. 311.07](#) or [R.C. 311.08](#). This term, therefore, is accorded its common, ordinary meaning. [R.C. 1.42](#). *Black's Law Dictionary* 1166 (8th ed. 2004) defines "peace" as "[a] state of public tranquility; freedom from civil disturbance or hostility." Accord *City of Wellsville v. O'Connor*, 1 Ohio C.C. (n.s.) 253, 256, 14 Ohio Cir. Dec. 689 (Cir. Ct. Columbiana County 1903). Moreover, the Ohio Supreme Court has held that the General Assembly deems the commission of a criminal offense a breach of the peace inasmuch as a violation of the criminal laws disturbs the tranquility and dignity of the state. As explained in *City of Akron v. Mingo*, 169 Ohio St. 511, 515-16, 160 N.E.2d 225 (1959), which interpreted the exceptions to immunity from arrest conferred under [R.C. 2331.11-14](#):

The statute itself (Section 2331.13) limits the immunity so that it shall "not extend to cases of treason, felony, or breach of the peace." What then is meant by breach of the peace? Does it include all criminal offenses?

It is quite pertinent that the statutes of Ohio, in [Section 2941.06, Revised Code](#),⁴ provide the form to be used for either indictment or information, which would include all felonies and misdemeanors presented by a grand jury, and contain the words, "contrary to the form of the statute in such case made and provided, and against the peace and dignity of the state of Ohio."

It is obvious that, by adoption of this form, the General Assembly considered all criminal offenses to be against the peace and dignity of the state of Ohio or a breach of the peace. (Footnote and emphasis added.)

*5 See generally *Williamson v. United States*, 207 U.S. 425 (1908) (the phrase "breach of the peace" includes all crimes and misdemeanors of every character).

Insofar as the language of [R.C. 2941.06](#) is substantially the same as when the Ohio Supreme Court decided *Mingo*, the court's reasoning remains persuasive. Accordingly, a county sheriff's duty to preserve the public peace includes the concomitant authority to arrest and detain without a warrant any person who commits a criminal offense.

An alien who violates certain provisions of federal **immigration** law may be subject to criminal prosecution.⁵ For example, under [8 U.S.C. § 1304\(e\)](#), failure to carry a certificate of alien registration or alien registration receipt card may subject an alien to criminal sanctions. [8 U.S.C. § 1306](#) also authorizes criminal penalties for aliens who fail to register and be fingerprinted, notify the Attorney General of a change in address, make fraudulent statements on an application for registration, or counterfeit any information contained on a certificate of alien registration or alien registration receipt card. In addition, [8 U.S.C. § 1325](#) authorizes the imposition of criminal penalties when an alien has entered or attempted to enter the United States at any time or place other than as designated by **immigration** officials, eluded examination or inspection by **immigration** officials, or attempted to enter or obtained entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, while [8 U.S.C. § 1326](#) makes it a criminal violation for an alien who is under an outstanding order of exclusion, deportation, or removal to reenter the United States.

Because certain provisions of federal **immigration** law constitute the commission of a criminal offense when violated, violations of these provisions are breaches of the public peace for purposes of [R.C. 311.07\(A\)](#) and [R.C. 311.08\(A\)](#). Therefore, under [R.C. 311.07\(A\)](#) and [R.C. 311.08\(A\)](#), a county sheriff may arrest and detain an alien without a warrant when evidence establishes probable cause to believe that the alien has violated a criminal provision of federal **immigration** law.⁶

See *Farm Labor Org. Comm. v. Ohio State Highway Patrol*, 991 F. Supp. at 903 (Ohio State Highway Patrol troopers are authorized by Ohio law to enforce the criminal provisions of federal immigration law). See generally *Gonzales v. City of Peoria*, 722 F.2d at 477 (Arizona law authorizes local officers to arrest for violations of 8 U.S.C. § 1325 where there is probable cause to believe the arrestee has illegally entered the United States). A county sheriff may not, however, arrest and detain an alien for a violation of a civil provision of federal immigration law.

When a county sheriff arrests and detains an alien without a warrant for a possible criminal violation of federal immigration law, the sheriff must comply with all applicable state, federal, or international laws to protect the rights of the alien.⁷ See generally *Gonzales v. City of Peoria*, 722 F.2d at 477 (arrests for federal offenses can be justified by state law authorization only if the arrest procedures do not violate the federal Constitution); *Farm Labor Org. Comm. v. Ohio State Highway Patrol*, 991 F. Supp. at 900 (the Fourth Amendment to the United States Constitution applies to citizens and aliens alike). This includes, but is not limited to, having reasonable suspicion of criminal activity before interfering with the privacy and personal security of an alien and establishing probable cause before arresting an alien for a criminal violation of federal immigration law.

*6 Under the Fourth Amendment to the United States Constitution, aliens have the right to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. The language of this amendment prevents arbitrary and oppressive interference by [law] enforcement officials with the privacy and personal security of [aliens]. *United States v. Martinez-Fuerte*, 428 U.S. 543, 554 (1976). Thus, the language of the Fourth Amendment to the United States Constitution requires a county sheriff to have a reasonable and articulable suspicion of criminal activity before briefly detaining an alien to investigate suspicious circumstances. *United States v. Campbell*, 2007 U.S. App. LEXIS 12097, at *10-12 (6th Cir. May 24, 2007); *Rothhaupt v. Maiden*, 144 Fed. Appx. 465, 469, 2005 U.S. App. LEXIS 14942 (6th Cir. 2005); *United States v. Bentley*, 29 F.3d 1073, 1075 (6th Cir. 1994).

This means, *inter alia*, that a county sheriff may not detain an alien based solely on the alien's race or ethnicity. *Farm Labor Org. Comm. v. Ohio State Highway Patrol*, 991 F. Supp. at 901. See generally *United States v. Avery*, 137 F.3d 343, 354 (6th Cir. 1997) (the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution prohibits agents from engaging in investigative surveillance of an individual based solely on impermissible factors such as race). Instead, a county sheriff must have particularized suspicion of criminal activity before he detains and questions an alien. *Farm Labor Org. Comm. v. Ohio State Highway Patrol*, 991 F. Supp. at 901.

In addition, the intrusiveness and duration of a detention by a county sheriff must bear a reasonable relation to either the initial purpose for the detention or other circumstances that come lawfully to the sheriff's attention during the detention. *Id.* at 903-04. Once the investigatory activities incident to a detention have been completed, any further detention of an alien that is motivated by a desire, based on race or ethnicity, to question the alien about his immigration status is unlawful under the Equal Protection Clause. *Id.* at 904 n.4. Accordingly, once justification for a county sheriff to initially detain an alien expires, the sheriff may not further detain the alien unless something that occurred during the detention generated the necessary reasonable suspicion to justify that detention.

A county sheriff also may not effect a warrantless arrest of an alien for a criminal violation of federal immigration law unless he has probable cause to make the arrest. *United States v. Campbell*, 2007 U.S. App. LEXIS 12097, at *22; *United States v. Sangineto-Miranda*, 859 F.2d 1501, 1508 (6th Cir. 1988). Probable cause to arrest is present when at that moment the facts and circumstances within [the sheriff's] knowledge and of which [he] had reasonably trustworthy information were sufficient to warrant a prudent man in believing that the [alien] had committed or was committing an offense. *Beck v. Ohio*, 379 U.S. 89, 91 (1964); accord *United States v. Campbell*, 2007 U.S. App. LEXIS 12097, at *12. In *United States v. Sangineto-Miranda*, 859 F.2d at 1508, the court explains what is meant by probable cause:

*7 A warrantless arrest is justified if, at the time of the defendant's arrest, police officers have probable cause to believe that an offense has been, is being, or will be committed. Probable cause exists where the facts and circumstances within the officer's knowledge are sufficient to warrant a prudent person, or one of reasonable caution, in believing, in the circumstances shown, that the suspect has committed, is committing, or is about to commit an offense. The probable cause requirement does not demand any showing that such a belief is correct or more likely true than false.

Probable cause is a fluid concept turning on the assessment of probabilities in particular factual contexts not readily, or even usefully, reduced to a neat set of legal rules. (Citations omitted.)

Accord *United States v. Campbell*, 2007 U.S. App. LEXIS 12097, at *20; *United States v. Chapel*, 1997 U.S. App. LEXIS 7302, at *7-8 (6th Cir. Apr. 11, 1997).

Thus, in order to establish probable cause to arrest an alien for a criminal violation of federal **immigration** law, circumstances must exist that would cause a reasonable person to believe that a crime has been committed.

In addition to observing the constitutional and statutory rights of an alien, it is imperative that a county sheriff immediately contact federal **immigration** officials for instructions concerning the continued detention by the sheriff of an alien who is detained for a possible criminal violation of federal **immigration** law and, if required, the making of arrangements for the transfer of custody to federal **immigration** officials. *See generally* 8 U.S.C. § 1252c(a) (notwithstanding any other provision of law, to the extent permitted by relevant State and local law, State and local law enforcement officials are authorized to arrest and detain an individual who: (1) is an alien illegally present in the United States; and (2) has previously been convicted of a felony in the United States and deported or left the United States after such conviction, *but only after the State or local law enforcement officials obtain appropriate confirmation from the Service of the status of such individual and only for such period of time as may be required for the Service to take the individual into Federal custody for purposes of deporting or removing the alien from the United States*) (emphasis added)); 8 U.S.C. § 1357(g)(10)(B) (nothing in 8 U.S.C. § 1357(g), which authorizes the Attorney General of the United States and a political subdivision of a state to enter into an agreement to permit local officials to perform a function of an **immigration** officer in relation to the investigation, apprehension, or detention of aliens, shall be construed to require an agreement under [8 U.S.C. § 1357(g)] in order for any officer or employee of a State or political subdivision of a State to communicate with the Attorney General regarding the **immigration** status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States) (emphasis added)).

Authority of a County Sheriff and a Board of County Commissioners to Enter into an Agreement with the Attorney General of the United States under 8 U.S.C. § 1357(g) to Authorize the Sheriff to Arrest and Detain Aliens

*8 Your second and third questions ask, if a county sheriff does not have the authority to arrest and detain illegal aliens without a warrant for possible criminal violations of federal **immigration** law, may the sheriff or the board of county commissioners enter into an agreement with the Attorney General of the United States under 8 U.S.C. § 1357(g) whereby the sheriff performs the functions of a federal **immigration** officer in relation to the investigation, apprehension, and detention of illegal aliens in the United States. Because we have concluded that R.C. 311.07(A) and R.C. 311.08(A) authorize a county sheriff to arrest and detain an alien when evidence establishes probable cause to believe that the alien has violated a criminal provision of federal **immigration** law, it is unnecessary for us to answer your second and third questions. *See generally* 8 U.S.C. § 1357(g)(10)(B) (nothing in 8 U.S.C. § 1357(g), which authorizes the Attorney General of the United States and a political subdivision of a state to enter into an agreement to permit local officials to perform a function of an **immigration** officer in relation to the investigation, apprehension, or detention of aliens, shall be construed to require an agreement under [8 U.S.C. § 1357(g)] in order for any officer or employee of a State or political subdivision of a State to cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States); *United States v. Vasquez-Alvarez*, 176 F.3d at 1300 (a formal agreement is not necessary for state and local officers to cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States) (quoting 8 U.S.C. § 1357(g)(10)(B))).

Authority of a Board of County Commissioners to Direct the County Sheriff to Receive into His Custody Aliens Being Detained by USICEO

Your fourth question asks whether R.C. 341.21(A) authorizes a board of county commissioners to direct the county sheriff to receive into his custody aliens who are being detained by USICEO for deportation purposes when the aliens have not been charged with a crime by the United States. R.C. 341.21(A) provides, in part:

The board of county commissioners may direct the sheriff to receive into custody prisoners *charged with or convicted of crime by the United States*, and to keep those prisoners until discharged.

The board of the county in which prisoners charged with or convicted of crime by the United States may be so committed may negotiate and conclude any contracts with the United States for the use of the jail as provided by this section and as the board sees fit. (Emphasis added.)

The plain language of R.C. 341.21(A) is limited to situations in which a prisoner has been charged with or convicted of crime by the United States. *See* 1928 Op. Atty. Gen. No. 3079, vol. IV, p. 2947, at 2954 (by the terms of [G.C. 3179 (now R.C. 341.21)], a sheriff is not required to receive any Federal prisoners except those charged with or convicted of crime). Because R.C. 341.21 expressly lists the situations in which a board of county commissioners may direct the county sheriff to receive federal prisoners into his custody, the board may not direct the sheriff to receive federal prisoners into his custody in other situations. *See generally* *State v. Droste*, 83 Ohio St. 3d 36, 39, 697 N.E.2d 620 (1998) (under the general rule of statutory construction *expressio unius est exclusio alterius*, the expression of one or more things implies the exclusion

of those not identified); *Thomas v. Freeman*, 79 Ohio St. 3d 221, 224-25, 680 N.E.2d 997 (1997) (the rule of *expressio unius est exclusio alterius*, or the naming of a specific thing, implies the exclusion of those not named).

*9 This means that a board of county commissioners may not direct the county sheriff to receive federal prisoners into his custody when the prisoners have not been charged with, or convicted of, a crime by the United States. Accordingly, R.C. 341.21(A) does not authorize a board of county commissioners to direct the county sheriff to receive into his custody aliens who are being detained by USICEO for deportation purposes when the aliens have not been charged with, or convicted of, a crime by the United States.

Authority of a County Sheriff to Detain an Alien on a Federal Detainer When Ohio Law Otherwise Would Require that the Alien Be Released from Custody

Your fifth question asks whether a county sheriff may detain an alien on the basis of a detainer⁹ issued by USICEO when Ohio law requires the alien be released from custody.¹⁰ 8 C.F.R. § 287.7, which authorizes immigration officers of USICEO to issue detainers, provides, in part, as follows:

(a) *Detainers in general.* Detainers are issued pursuant to sections 236 and 287 of the Act and this chapter 1. Any authorized immigration officer may at any time issue a Form I-247, Immigration Detainer-Notice of Action, to any other Federal, State, or local law enforcement agency. A detainer serves to advise another law enforcement agency that the Department seeks custody of an alien presently in the custody of that agency, for the purpose of arresting and removing the alien. The detainer is a request that such agency advise the Department, prior to release of the alien, in order for the Department to arrange to assume custody, in situations when gaining immediate physical custody is either impracticable or impossible.

í .

(d) *Temporary detention at Department request.* Upon a determination by the Department to issue a detainer for an alien not otherwise detained by a criminal justice agency, such agency shall maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by the Department. See also 8 U.S.C. § 1357(d) (issuance of a detainer for an alien who violates a law relating to controlled substances).

A detainer issued under 8 C.F.R. § 287.7 advises law enforcement agencies that federal immigration officials seek the custody of the alien named in the detainer. In addition, under the federal rule, the custody of an alien may be transferred from a law enforcement agency to USICEO in the following instances. First, if a law enforcement agency receiving a detainer has custody of the alien named in the detainer, the detainer requests the agency to hold the alien for the [USICEO] to arrange to assume custody, in situations when gaining immediate physical custody is either impracticable or impossible. 8 C.F.R. § 287.7(a); accord *Escobar v. United States Dep't of Justice, Immigration and Naturalization Serv.*, Miscellaneous Action No. 05-0048, 2005 U.S. Dist. LEXIS 8140, at *2 n.2 (E.D. Pa. May 5, 2005). See generally *State of Ohio v. Sanchez*, 110 Ohio St. 3d 274, 2006-Ohio-4478, 853 N.E.2d 283, at ¶15 (2006) (8 C.F.R. § 287.7(a) does not hold the accused. Instead, it declares the government's intention to seek custody in the future and requests notification before the accused is released from his or her present confinement so as to enable USICEO to assume custody of the accused upon his or her release).

*10 Second, if a law enforcement agency receiving a detainer does not have custody of the alien named in the detainer when the detainer is issued, but later detains the alien,¹¹ the agency may maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by the [USICEO]. 8 C.F.R. § 287.7(d); see *Perez-Garcia v. Village of Mundelein*, Case No. 04 C 7216, 2005 U.S. Dist. LEXIS 7979, at *19 (N.D. Ill., Apr. 13, 2005) (indicating that when a local law enforcement agency does not have authority to detain an alien, 8 C.F.R. § 287.7(d) requires a local law enforcement agency to maintain custody over an alien who is subject to a detainer for a period not exceeding 48 hours); *Kendall v. Immigration & Naturalization Serv.*, 261 F. Supp. 2d 296, 301 n.2 (S.D. N.Y. 2003) (8 C.F.R. § 287.7(d) applies only when an alien is not otherwise detained by a criminal justice agency).

Third, if a law enforcement agency receiving a detainer has custody of the alien named in the detainer, but the agency is required to release the alien because the alien, *inter alia*, finishes serving his term of imprisonment or makes bail, the agency may maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by the [USICEO]. 8 C.F.R. § 287.7(d); see *Royer v. Immigration and Naturalization Serv.*, 730 F. Supp 588, 591 (S.D. N.Y. 1990) (a detainer issued under 8 C.F.R. § 287.7 merely allows a state to lawfully continue to hold an alien for up to 48 hours following his scheduled release or parole to facilitate assumption of custody by federal immigration officials).

A detainer issued under 8 C.F.R. § 287.7(d) thus authorizes a county sheriff to continue holding an alien in his custody until the alien is transferred to the custody of USICEO when Ohio law otherwise would require that the alien be released from

custody.¹² See *Perez-Garcia v. Village of Mundelein*, Case No. 04 C 7216, 2005 U.S. Dist. LEXIS 7979, at *19; *Kendall v. Immigration & Naturalization Serv.*, 261 F. Supp. 2d at 301 n.2; *Royer v. Immigration and Naturalization Serv.*, 730 F. Supp. at 591; see also *Black's Law Dictionary* 480 (8th ed. 2004) (a detainer is "[a] writ authorizing a prison official to continue holding a prisoner in custody"). Therefore, under 8 C.F.R. § 287.7(d), a county sheriff may detain an alien on the basis of a detainer issued by USICEO for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by federal immigration officials even though Ohio law otherwise would require that the alien be released from custody.¹³

Authority of a County Sheriff and a Board of County Commissioners to Enter into an Agreement with the Attorney General of the United States under 8 U.S.C. § 1357(g) to Authorize the Sheriff to Detain Aliens Pursuant to a Federal Detainer

*11 Your final question asks, if a county sheriff may not detain an alien on the basis of a detainer issued by USICEO, may the sheriff or the board of county commissioners enter into an agreement with the Attorney General of the United States under 8 U.S.C. § 1357(g) whereby the sheriff performs the functions of a federal immigration officer in relation to the investigation, apprehension, and detention of illegal aliens in the United States. Because we have concluded that a county sheriff may detain an alien on the basis of a detainer issued by USICEO even though Ohio law otherwise would require that the alien be released from custody, it is not necessary for us to answer your final question.

Conclusions

In sum, it is my opinion, and you are hereby advised as follows:

1. Under R.C. 311.07(A) and R.C. 311.08(A), a county sheriff may arrest and detain an alien without a warrant when evidence establishes probable cause to believe that the alien has violated a criminal provision of federal immigration law. A county sheriff may not, however, arrest and detain an alien for a violation of a civil provision of federal immigration law. (1928 Op. Atty Gen. No. 3079, vol. IV, p. 2947, syllabus, paragraph three, overruled in part.)
2. R.C. 341.21(A) does not authorize a board of county commissioners to direct the county sheriff to receive into his custody aliens who are being detained by the United States Immigration and Customs Enforcement Office for deportation purposes when the aliens have not been charged with, or convicted of, a crime by the United States.
3. Under 8 C.F.R. § 287.7(d), a county sheriff may detain an alien on the basis of a detainer issued by the United States Immigration and Customs Enforcement Office for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by federal immigration officials even though Ohio law otherwise would require that the alien be released from custody.

Respectfully,

Marc Dann
Attorney General

- 1 The United States Congress holds a plenary and exclusive power to regulate immigration. See generally U.S. Const. art. I, § 8, cl. 4 (the United States Congress may "establish a uniform Rule of Naturalization"); *Hampton v. Mow Sun Wong*, 426 U.S. 88, 101 n.21 (1976) (the authority to control immigration is "vested solely in the Federal Government, rather than the States"); *Canas v. Bica*, 424 U.S. 351, 354 (1976) (the "[p]ower to regulate immigration is unquestionably exclusively a federal power"). Under 8 U.S.C. §§ 1101, *et seq.*, which are referred to as the Immigration and Nationality Act, the United States Congress has enacted "a comprehensive legislative plan for the nation-wide control and regulation of immigration and naturalization." *Takahashi v. Fish & Game Comm'n*, 334 U.S. 410, 419 (1948).
When examining this plan it is crucial to distinguish between civil and criminal violations of federal immigration law since the United States Congress has provided different methods by which state and local law enforcement agencies may enforce the civil and criminal provisions of that law. For instance, civil violations are handled by administrative process, see 8 U.S.C. § 1227; 8 U.S.C. § 1253(c); 8 U.S.C. § 1324d, while criminal violations are prosecuted in the federal courts, see 8 U.S.C. § 1253(a), (b); 8 U.S.C. § 1324; 8 U.S.C. § 1325(a), (c); 8 U.S.C. § 1326.
- 2 The term "alien," as used in this opinion, means "any person not a citizen or national of the United States." 8 U.S.C. § 1101(a)(3).
- 3 In *United States v. Vasquez-Alvarez*, 176 F.3d 1294 (10th Cir. 1999), the court determined that 8 U.S.C. § 1252c does not preempt preexisting state law empowering state and local law enforcement officers to arrest for criminal violations of federal immigration law.

- 4 R.C. 2941.06 states, in part:
The jurors of the Grand Jury of the State of Ohio, within and for the body of the County aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that A.B., on the day of , at the county of aforesaid, did (here insert the name of the offense if it has one, such as murder, arson, or the like, or if a misdemeanor having no general name, insert a brief description of it as given by law) contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.
- 5 Illegal presence in the United States is a civil, not a criminal, violation of federal **immigration** law. See 8 U.S.C. § 1227(a)(1)(B).
- 6 The third syllabus paragraph of 1928 Op. Atty Gen. No. 3079, vol. IV, p. 2947 concluded, in part, that, “[t]here is no authority for a county sheriff to detain persons on suspicion of their having committed offenses punishable by Federal Law.” This opinion did not, however, consider the language of G.C. 2833 (now R.C. 311.07) or G.C. 2834 (now R.C. 311.08). In light of this fact, we overrule 1928 Op. Atty Gen. No. 3079, vol. IV, p. 2947 to the extent it is inconsistent with the conclusions reached in this opinion.
- 7 A county sheriff who violates the rights of an alien may subject the county to liability under 42 U.S.C. § 1983. See, e.g., *City of Canton v. Harris*, 489 U.S. 378 (1989) (a city may be held liable for inadequate police training if failure to train amounts to deliberate indifference to rights of persons with whom police come into contact). An alien who prevails in an action under 42 U.S.C. § 1983 may be allowed “a reasonable attorney’s fee as part of the costs.” 42 U.S.C. § 1988(b).
- 8 The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution declares that, “[n]o state shall deny to any person within its jurisdiction the equal protection of the laws.”
- 9 A detainer issued by the United States **Immigration** and Customs Enforcement Office (USICEO) notifies law enforcement agencies that USICEO seeks custody of an alien who is in the custody of a law enforcement agency. When a law enforcement agency receives such a detainer, the agency is authorized to retain custody of the alien while making arrangements to transfer custody to USICEO. 8 C.F.R. § 287.7. See generally *Black’s Law Dictionary* 480 (8th ed. 2004) (a detainer is “[a] writ authorizing a prison official to continue holding a prisoner in custody”). See generally also 1993 Op. Atty Gen. No. 93-080 at 2-398 n.1 (“[a] detainer is a notice to prison authorities that charges are pending against an inmate elsewhere, requesting the custodian to notify the sender before releasing the inmate”).
- 10 An alien may not be confined in a county jail unless the confinement is authorized by law. See 15 Ohio Admin. Code 5120:1-8-01(A)(1) and (3)(d); 15 Ohio Admin. Code 5120:1-10-01(A)(1) and (3)(d); 15 Ohio Admin. Code 5120:1-12-01(A)(1) and (3)(d); 2004 Op. Atty Gen. No. 2004-024 at 2-211; see also R.C. 2935.16 (“[w]hen it comes to the attention of any judge or magistrate that a prisoner is being held in any jail or place of custody in his jurisdiction without commitment from a court or magistrate, he shall forthwith, by summary process, require the officer or person in charge of such jail or place of custody to disclose to such court or magistrate, in writing, whether or not he holds the person described or identified in the process and the court under whose process the prisoner is being held”).
- 11 As explained in the text earlier, a county sheriff must have reasonable suspicion of criminal activity before interfering with the privacy and personal security of an alien and establish probable cause before arresting an alien.
- 12 For the purpose of this opinion, we employ the presumption that 8 C.F.R. § 287.7 is constitutional since no federal or state court has made a determination regarding the constitutionality of that rule. See generally *Fabrey v. McDonald Village Police Dep’t*, 70 Ohio St. 3d 351, 352, 639 N.E.2d 31 (1994) (“[s]tatutes are presumed to be constitutional unless shown beyond a reasonable doubt to violate a constitutional provision”). Moreover, the power to determine the constitutionality of 8 C.F.R. § 287.7, either facially or as applied, rests in the judicial branch. See generally *Beagle v. Walden*, 78 Ohio St. 3d 59, 62, 676 N.E.2d 506 (1997) (“[i]nterpretation of the state and federal Constitutions is a role exclusive to the judicial branch”); *State ex rel. Davis v. Hildebrandt*, 94 Ohio St. 154, 169, 114 N.E. 55 (1916) (“[t]he power of determining whether a law or constitutional provision is valid or otherwise is lodged solely in the judicial department. The construction of the laws and constitution is for the courts”), *aff’d*, 241 U.S. 565 (1916).

- 13 R.C. 311.07(A) states that, “[t]he sheriff shall, except as provided in division (C) of this section, execute all warrants, writs, and other process directed to the sheriff by any proper and lawful authority of this state, and those issued by a proper and lawful authority of any other state.” Similarly, R.C. 311.08(A) provides that, “[t]he sheriff shall, except as provided in division (B) of this section, execute every process directed to him by a proper and lawful authority of this state or issued by a proper and lawful authority of any other state.” For purposes of R.C. 311.07(A) and R.C. 311.08(A), the term “state,” as used in the phrase “any other state,” includes writs and process directed to a county sheriff by the United States. See R.C. 1.59(G) (“[a]s used in any statute, unless another definition is provided in that statute or a related statute, ‘state,’ when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legislative authority of the United States of America. ‘This state’ or ‘the state’ means the state of Ohio.”); *State ex rel. Pittsburgh & Conneaut Dock Co. v. Indus. Comm’n of Ohio*, 160 Ohio App. 3d 741, 2005-Ohio-2206, 828 N.E.2d 712, at ¶12 (2005) (“[a]pplying, as we must, the definition of ‘state’ found in R.C. 1.59, we find that the phrase ‘laws of another state’ includes laws of ‘any area subject to the legislative authority of the United States of America,’ including the United States itself”). The use of the word “shall” in R.C. 311.07(A) and R.C. 311.08(A) and the absence of language indicating that it should be construed as “may” indicates that, except as provided in R.C. 311.07(C) and R.C. 311.08(B), respectively, a county sheriff who receives a warrant, writ, or other process directed to him by a proper and lawful authority of the United States has a mandatory duty to execute that warrant, writ, or process. See generally *Dep’t of Liquor Control v. Sons of Italy Lodge 0917*, 65 Ohio St. 3d 532, 534, 605 N.E.2d 368 (1992) (“[i]n statutory construction, the word ‘may’ shall be construed as permissive and the word ‘shall’ shall be construed as mandatory unless there appears a clear and unequivocal legislative intent that they receive a construction other than their ordinary usage” (quoting *Dorrian v. Scioto Conservancy Dist.*, 27 Ohio St. 2d 102, 271 N.E.2d 834 (1971) (syllabus, paragraph one))).
- Under R.C. 311.07(C) and R.C. 311.08(B), a county sheriff is not required to execute a warrant, writ, or other process directed to him by the United States, unless the warrant, writ, or process contains either of the following:
- (1) A certification by the judge of the court that issued the process stating that the issuing court has jurisdiction to issue the process and that the documents being forwarded conform to the laws of the state in which the court is located;
 - (2) If the process is an initial summons to appear and defend issued after the filing of a complaint commencing an action, a certification by the clerk of the court that issued the process stating that the process was issued in conformance with the laws of the state in which the court is located.
- A detainer issued by USICEO under 8 C.F.R. § 287.7 does not meet either of the conditions set forth in R.C. 311.07(C) or R.C. 311.08(B). Thus, a county sheriff may, but is not required to, detain an alien on the basis of a detainer issued by USICEO for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by federal **immigration** officials when Ohio law requires that the alien be released from custody.



Staff Leadership Training
Submitted by Patti Bates
November 20, 2017

In late 2016, Council hired consultant Brenda Kraner, a professor at Wright State University, to conduct Leadership Training and Team Building with Village supervisory staff. That staff included: Melissa Dodd, Ruthe Ann Lillich, Judy Kintner, Denise Swinger, Brad Ault, Jason Hamby, Johnnie Burns, Brian Carlson, Naomi Watson, Josh Knapp and myself. Beginning in October of 2016, I met individually with Brenda for a total of 10 times, for approximately 1-1/2 hours each time. In addition, the full supervisory staff met with Brenda in 4 sessions for a total of 24 hours. During this time, we conducted exercises to help us better understand ourselves and the ways we express ourselves, and how those things are perceived by others based on their backgrounds and personalities. In addition, we learned to better understand how our individual personality traits translate into our view of the world around us and, specifically, the people we interact with regularly. An outline of topics covered is included with this report.

Some specific activities were:

- StrengthsFinder Workshop – this session helped participants discover their strengths and how those strengths influence the way they get their jobs done, as well as how to leverage those strengths and the strengths of others.
- Model the Way and Trust – Participants discovered their values and created personal values statements. They participated in an activity geared toward trust, discussed the concept of trust and how to develop it within the leadership team.
- Inspire a Shared Vision and Challenge the Process – Participants discussed passion for what you do and the vision everyone has for their area of responsibility. Participants discussed thinking outside the box and how to challenge processes in place that may or may not support the mission of the Village.
- Enable Others to Act & Encourage the Heart – Participants discussed employee engagement and how to create an environment conducive to it. Participants explored the value of conflict and strategies for having the difficult conversations necessary for resolving conflict. Participants discussed the importance of recognizing others in a manner they value. At the conclusion, participants wrote a thank you note to someone associated with the Village.
- Each session had a homework assignment where participants applied something they learned in class to the workplace. The final assignment at the end of the class requested

participants to select an accountability partner and share one key thing they will do differently in the workplace as a result of training.

Staff came away from this training with a renewed appreciation for the different ways people express themselves, as well as a more balanced acceptance of those different ways. Additionally, some of the other items we came away with were:

- Project flow sheets, which detail each project, the responsibilities for that project, specific tasks related to the project and a projected completion date (example included)
- A staff-wide habit of summarizing meetings via email, so that everyone can read and comment on the recap
- A renewed effort to minimize the duplication of effort across departments and work more cohesively
- Establishing a practice of holding immediate supervisory staff meetings when unusual events occur to coordinate tasks and make sure everyone is on the same page

Additionally, Patti and Melissa, as Manager and Assistant Manager, will work together on a professional development program for employees.

Project/Idea Flow Sheet

Project/Idea Title: _____

Brief Description: _____

Lead Staff Member: _____

Additional Staff Members: _____

Desired Outcome/Problem to be Solved: _____

Action Steps/Target Dates

1. _____

2. _____

3. _____

4. _____

Target Project Completion Date: _____



Manager's Report, November 20, 2017

Crew Quarters

Bids are due on the crew quarters by November 16th. We may have a resolution to award the project for Council approval on November 20th. If not, it will be on December 4th.

Bryan Center Generator

The Bryan Center has a new generator! Thank you to Johnnie Burns and the Electric Crew for making that happen by taking an old piece of equipment and repurposing it!

Community Resources

Community Resources has been able to close their books for the last time and have remitted to the Village a check for \$22,185.50. This is the final piece of the transfer of the CBE property to the Village.

Yard Waste

A reminder that November is the last month Rumpke will pick up yard waste on the last Friday of the month, if it is in the proper bag. Bags are available at the Utility Office.

Wage Increase

Council will find in packets the available information on wage increases for employees in surrounding communities. Given this information, Melissa and I recommend a 2.5% increase for all hourly employees.

Upcoming Topics

Earlier this year, the State Legislature passed a bill governing small cellular towers/antennae in the right-of-way. This legislation places many restrictions on the local government as far as how we can oversee the positioning of these towers and antennae. Consequently, staff is working with the Solicitor to draft small cell tower legislation that would enable us to have some measure of control over the placement of these facilities. In addition, it is important to note that the Village cannot collect pole rental fees. The only Village only can charge an application fee. We will be bringing that a future meeting.

Staff has been reviewing the special event/Bryan Center rental process from beginning to end. A couple of things that regularly come up during these discussions are: revamping the event form (which we are doing); establishing a deadline prior to the event by which staff must have the proper information about the event (in order to ensure that the event has everything they need); and, finally, establishing a particular space for special events which does not entail closing roadways and would allow us to install permanent facilities for such events (such as easily accessible electric and possibly restrooms). We will keep everyone posted as that progresses.

I'm happy to answer any questions. Thank you! Patti Bates

Wage Adjustment

Submitted by Ruthe Ann Lillich and Patti Bates

November 20, 2017

2018 Increases in surrounding area

Xenia	2.5%
Bellebrook	2.75%
Fairborn	2.25%
Beavercreek	2.5%
Jamestown	not yet determined
New Carlisle	no answer to email
Enon	no response to message
West Carrollton	still in negotiations

After review of the above information, staff recommends a 2.5% wage adjustment for hourly employees.



TO: Village Council and Village Manager Patti Bates
FROM: Denise Swinger, Planning, Zoning & Economic Sustainability
DATE: November 15, 2017
RE: Report of Activities from October 13, 2017 ó November 15, 2017

Meetings:

2 Village Council Meetings re: ADA compliant sidewalks/Recommended Tree List update/Transient Guest Lodging
Planning Commission meeting ó
1) Conditional Use & Site Plan Review ó Fire Station/Township Offices
2) Replat ó CBE/Commerce Park ó re-designating lots and ROWs
3) Conditional Use & Site Plan Review ó Cresco Labs Medical Marijuana Cultivation & Processing Plant
Social Media in the Workplace Workshop
Meeting w/Cresco Labs
Meeting w/ resident re: fence dispute
Meeting w/YS Home Inc. re: PUD process
Meeting w/Mike Heintz re: Replat and storm water plans
Meeting w/legal & staff re: Medical Marijuana Dispensary locations
Meeting w/ODNR Urban Forester and staff on tree list recommendations

Permits Issued:

1 Single-family dwelling
1 Addition
1 Accessory structure
1 Replat
4 Fence
4 Work in ROW
1 Sign

Violations:

No new violations ó several pending or in process.

Staff prepared for the conditional use hearings and site plans reviews and the final plan phase one replat, writing their respective reports, sending notification letters to neighbors, advertising

the hearings, and placing meeting notification signs at the properties. At the November 13th meeting of the Planning Commission, the CBE Final Plan Phase One Replat was approved, along with Cresco Labs conditional use application and site plan review, and the Miami Township Trustees conditional use application and site plan review. Both had specific conditions applied to their approvals, which included items related to storm water management, landscaping/screening, and bike racks.

We are anxiously waiting to hear an announcement from the State of Ohio regarding the awarding of the Tier I medical marijuana grow licenses, which Cresco Labs applied for.

A medical marijuana dispensary issued a state required zoning approval form for a site in B-2 on Xenia Avenue. It was reviewed by staff and legal and was determined to be a permitted use in this district. The dispensary applications are due to the State of Ohio on Friday, November 17, 2017.

Staff received a conditional use application for the Yellow Springs Brewery's property on Xenia Avenue (former bowling alley). This will be on the agenda for the December 11th Planning Commission meeting.

Respectfully submitted,

Denise Swinger



Assistant Village Manager Report
November 20, 2017

Lodging Tax Information

I have been working diligently the past week in getting documents and information onto our website related to lodging tax. I have created a few documents that I hope are helpful including process information, frequently asked questions and the permit application. I have also figured out how to create online forms to be submitted! I am very excited about the progress I have made and I am open to suggestions.

House Bill 49 Legislation

At the next meeting our income tax ordinance will need to have a few changes as a result of House Bill 49 that was passed early in 2017. This is mostly definition changes and due date changes. These need to be passed by January 31, 2018 so they will appear on the next agenda for a first reading. The language was provided by the Regional Income Tax Authority that we use to collect our income taxes.

Utility Dispute Resolution Board Changes

There will also be an ordinance on the next agenda to make changes to the procedures within the Utility Dispute Resolution Board. Specifically this will outline procedures for setting up a hearing and also procedures if a complainant does not show up for a hearing.

Utility Billing Software Conversion Delayed

I have decided to delay the utility billing software conversion while a few more bugs are being ironed out. I also want to run a parallel process to ensure everything runs smoothly prior to going live. I know that this has been a long process but I want to ensure that this is going to be as seamless and without issue as possible.

Sidewalk Projects

The Xenia Avenue sidewalk ramp project should be nearly finished at this point. The Safe Routes to School project is also moving along very nicely. I must say even though it has been a very wet fall, these projects have not been stalled much and I look forward to wrapping them both up by year's end.



Village of Yellow Springs

November 20th 2017

The Police Department is pleased to announce:

We are in the promotional process for our new corporals and the department is now accepting applications for two full time officers. Testing for qualified applicants will be on December 16th.

I am happy to answer any questions.

Regards,

*Brian Carlson,
Chief of Police
937-767-7206
chief@yso.com*

Yellow Springs Police Department Activity Report for the month of October 2017

(A) Calls for Service Information

Total number of calls for service received ----- 674

(B) Offenses Information

Total offenses reported ----- 197

Community Policing-----26

(C) Felony criminal citation, misdemeanor criminal citations, and traffic citations (moving, parking, and warning citations).

Total citations issued ----- 129

(D) Stolen Property Value

Value of reported stolen property ----- \$0

Value of property recovered ----- \$0

(E) Accident Information

Accidents without injury -----3

Accidents with injury -----2

Accidents hit skip -----2

Accidents fatal ----- 0

(F) Domestic Violence Information

Domestic violence/disputes incidents -----1

(G) Overdose information

Number of Overdoses-----0

Number of Narcans used--0

11-20-17

To: Council

From: Judy Kintner

Re: Clerk's Report

It's been hopping in the Clerk's office—many records requests, many meeting and subsequent minutes. Orientation for new Council has been set for December 7th and 8th, and Village staff are looking forward to getting to know our new Council.

November 17th was Streets and Parks Supervisor Jason Hamby's last day with the Village. He's been helping to make the streets, parks, pool and water collection systems for the Village work right and run smoothly for 12 years, and I'd like to appreciate his contribution to all of our quality of life here, and to wish the very best for him and his family moving forward.

Just a note of explanation that all ordinances which will receive a first reading on December 18th will be read as emergency ordinances so that they do not cross over into the next calendar year (which would change the official ordinance number and be an administrative pickle). Just so we don't feel panicked by all the emergencies on December 18th!



The Economic Sustainability Commission provides information and makes recommendations to Council regarding economic development for the Village of Yellow Springs, identifying primary opportunities for economic development in the Village and strategies to support these efforts and facilitating a forum for incubating ideas and networking among diverse groups working on economic development in the Village.

Economic Sustainability Commission Minutes

Wednesday October 4, 2017

Council Chambers, John Bryan Community Center

Attendees: Luciana Lieff, Karen Wintrow, Brian Housh, Sammy Saber, Melissa Dodd, Susan Jennings, Saul Greenberg, Henry Myers

- Minutes from July and August approved
- Minutes from September approved after approved corrections

RLF

- Melissa update on RLF
 - Melissa to research:
 - Village solicitor's legal opinion and auditor's opinion on the holding of municipal funds by YSCU
 - Money trail history of the \$32k for the RLF and availability of the funds in writing
 - If tax money can be used for RLF and if there is any history of tax money in the \$32k available for the RLF, since this money came from the general funds
 - Credit checks to be performed for RLF purposes
 - If Council needs to give final approval for RLF
 - Parameters for receiving grants for RLF
- Susan to look up notes on other municipalities/community development organizations suggested by USDA for models
- Brian to create flowchart of RLF approval process
- Brian to research what information will be on the YSCU creditworthiness evaluation

EDRLF

- Purpose
 - Keep location open for the Village of Yellow Springs and Township for the Council to decide if it should be open for both or only for the Village of Yellow Springs
- Objectives & goals
 - Bold two values
- Loan Criteria
 - Appendix A - Checklist to determine if it meets the program
 - Sammy to write Appendix A (based on Appendix B questions)
 - Brian to reword the sentence regarding meeting EDRLF criteria, possibly using the word threshold instead

- Consider charging an application fee (\$25-50) if costs of running a credit check are involved
 - Set level of risk for loan
 - Item 3 - Brian to reword the sentence regarding meeting EDRLF criteria, possibly using the word threshold instead
- Loan Terms
 - Are all loans fixed rate?
- EDRLF document was approved to be presented to Council on October 16, 2017 after approved changes

Next meeting November 1, 2017, at 7pm, Council Chambers











OSHA's FOCUS 4





11/17/ 2017

Dear Village Council and Community,

Enclosed you will find three documents from the Justice System Task Force regarding a data report about citations and warnings of our police department to citizens of the village over the last 7 years. The main document is titled, **Yellow Springs Citations and Warnings Report**, provided by Wright State's Statistical Consulting Center and completed by Michael Bottomley of the Center. The second report, entitled the **Short Report**, is a more digestible rendering of the main document. And the third document is a face sheet entitled **Yellow Springs JSTF Data Analysis of Police Warnings and Citations**, which provides an overview of the report and is the least data driven explanation of the report.

The Task Force wants these documents to be easily available to the public and asks that it be included in the Village Council Packet with the request that it be presented to Village Council at the first meeting in December.

Thank You,

Judith Hempfling

JSTF Village Council Liaison

Yellow Springs JSTF Data Analysis of Police Warnings and Citations November 9⁹, 2017

Overview: Why analyze policing data? Creating a culture of transparency is a critical step in establishing *Community-based Policing*. Policing data offers a platform for local government, community, and law enforcement to examine and reflect on topics such as: 1) the types of crime occurring in a community; 2) policing activities and how police interact with community (e.g. who do they cite, and for what?); 3) whether policing activities align with community values; and, 4) how to improve policing. These are all important questions that the JSTF has been concerned with.

Establishing on-going collection and analysis of policing data is not a small task, but it's one that municipal governments are increasingly investing in. The JSTF wanted to see what could be learned about our own policing practices and the effort/time investment involved in analyzing policing data. This report summarizes an initial, exploratory study using data from the YSPD. It provides a look at how the study was carried out and its major findings, but does not attempt to provide interpretations or explanations of the findings.

The Study: For this initial study, we looked at whether there are any disparities in the warnings and citations police issued to YS residents based on their age, gender and/or race. We examined the warnings and citations issued by the YSPD between April 1, 2010-December 31, 2016. We framed the study around a simple question: does the policing data indicate any imbalances in how police respond to YS residents based on their age, gender and/or race?

To answer that question, you can't just look at the total number of citations or warnings. Why not? Because the Yellow Springs population isn't evenly spread across age, gender, or racial groups. For example, there are many more whites in YS than blacks. Based on that, you would expect whites to receive higher numbers of warnings and citations than blacks (and they do). To make meaningful comparisons, we needed to use measures with a common baseline. For one measure, we used proportions (%) of people in various groups who had gotten a warning or a citation, and compared those numbers to census data %s for those same groups. For another measure, we identified the total number of warnings or citations issued to individuals who had received at least one warning or citation. Based on those data, we calculated the average number of warnings or citations issued to various groups and compared those averages across groups.

The attached report examines the warnings and citations issued by the Yellow Springs Police Department to Yellow Springs residents covering the period from April 1, 2010 to December 31, 2016. Data were provided by the Yellow Springs Police Department, based on their records of warnings and citations issued during that period.¹

Findings: The analysis conducted by the WSU Statistical Center (attached) is very detailed. The WSU report provides the full set of findings and explanations of various statistical tests, along with a detailed description of the dataset. The analysis used 2 gender categories (male, female), 6 age categories (10-14; 15-24; 25-34; 45-59; 60+), and 3 racial categories (White, Black/African-American, All Other Races [Asians, Native Americans, Mixed, etc.])

¹ The dataset has some missing data, particularly regarding racial identification. Of the 921 YS residents who received at least one warning, race is not identified in 201 (21.8%) of the records. Similarly, of the 401 residents who received at least one citation, race is not identified in 41 (10.2%) of the records.

The major findings from the report are summarized below.

Warnings: The analysis of % of residents who receive at least one warning showed one significant effect. The results indicate that:

- the % of warnings issued to people of different racial groups and gender groups aligns with what ~~we~~^{you} ~~would~~^d expect, based on their representation in the YS population.
- the % of warnings departs significantly from census data across age groups. Younger residents, particularly 15-24 and 25-34 year-olds, were issued warnings at much higher rates compared to the % of those groups in the larger YS population, while people 60+ get a lower % of warnings compared to census data %s.

The analysis of the average number of warnings issued to residents indicates that:

- The average number of warnings differ~~ed~~^s markedly depending both on a persons' race and their gender, but not their age. Specifically, Black males ~~were~~^{are} issued a significantly higher number of warnings, on average, compared to other gender and racial groups. This finding held across all ages levels.

Citations: The analysis of % residents who receive at least one citation showed several significant effects. The results indicate that:

- the % of Black residents who ~~are~~ receive~~d~~^{ing} citations is significantly greater than we would expect it to be based on the % of Blacks in the YS population.
- The % of male residents who ~~are~~ receive~~d~~^{ing} citations is significant greater than we would expect, based on the % of males in the YS population.
- The % of residents in some age groups ~~who receive~~^{ing} citations is significant greater/less than ~~we~~^{we} would expect based on census data, in the same pattern described above for warnings (e.g. younger age groups receive~~d~~^d disproportionately more and older age groups receive~~d~~^d disproportionately less compared to census data).

The analysis of the average number of citations issued to residents indicates:

- the average number of citations does not differ across racial groups.
- the average number of citations is markedly differently for males and females, with males getting a higher average number than females (and this is true across various age groups).
- Number of citations also differs by age, with people in younger age groups receiving more citations on average than those in older age groups

(Note: The findings are also provided in tabular form at the end of this report.

What conclusions can we draw? The findings suggest that the YSPD has focused greater attention in its warnings and citations on some age, gender, and racial groups than others. We believe that the analysis employed statistical tests appropriately, and the statistical significance of differences when they did occur are pronounced.

The findings should be taken seriously, but not also overstated. Our point here is that it is as important to pay attention to findings that indicate no difference as those that show differences--the overall pattern of findings is at least as important as individual tests. Across the four measures considered (rates of warnings, average warnings; rates of citations, average citations) two of the four measures showed racial effects: the proportion of Black residents receiving citations is higher than would be expected based on census data, and Black male residents received more warnings, on average, than other groups, although not more citations.

We also see significant age differences on three of the four measures, with younger citizens receiving higher rates of warnings and citations than one might expect based on census data, and more citations on average, than older citizens. While the findings related to age are not totally surprising, it may be useful to consider what behaviors and situations are eliciting warnings and citations from the YSPD, and putting our younger residents at risk.

How can the report be used? There are several uses for this type of data analysis. First, the YS Police Department can objectively see patterns in their actions that can be the basis for reflection and internal discussions regarding policing practices. Second, the findings lend themselves to an examination of current YSPD training, and whether it needs to be augmented or changed. Third, the data is useful as a source of objective feedback to Village Council and the larger YS community to confirm or correct perceptions and concerns regarding policing practices. Findings can lead to dialogue about behaviors/actions on the part of Council, YSPD, and community members that need to be addressed.

Finally, the analyses conducted for this report are exploratory, and findings are open to differing interpretations and explanations. We have not taken it upon ourselves to provide interpretation of the findings. However, the fact that Black male residents of Yellow Springs received significantly more warnings than other groups, and Black residents of both genders weare cited at significantly higher proportional rates than other groups, requires attention from the JSTF, Village Council, the YSPD, and the Yellow Springs community.

Key Findings				
	% Warnings	Average # Warnings	% Citations	Average # Citations
Race	No significant differences	Depends on a combination of gender and race (see below)	YES Higher rates of citation to Black residents	No significant differences
Age	YES High rates of warnings to younger residents	No significant differences	YES High rates of citation to younger residents	YES Higher averages for younger residents than for older
Gender	No significant differences	Depends on a combination of gender and race (see below)	YES High rates of citation to male residents	YES Higher average for males than females
Interactions	None	YES - Average number of warnings issued to Black males higher than other groups, including Black females or White males	None	None

The Short Report

JSTF Data Analysis Summary

John Hempfling

11/9/2017

This data analysis summary is based on a report submitted by Mike Bottomley of Wright State University's Statistical Consulting Center, 28 August 2017, using a dataset provided by John Hempfling, which was based on the Yellow Springs Police Department's data.

The analysis reported here was conducted to examine whether the warnings and citations issued by the Yellow Springs Police Department to Yellow Springs residents differ across race, gender, or age groups. The data included in the analysis covers the period from April 1, 2010 to December 31, 2016.

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Research questions

Two types of analyses were performed:

1. Among YS residents, what proportion of each demographic group received at least one citation or warning?

According to the “Yellow Springs JSTF Data Analysis of Police Warnings and Citations,” to see whether the policing data shows any evidence of imbalanced response to YS residents based on their age, gender and/or race, “you can’t just look at the total number of citations or warnings. Why not? Because the Yellow Springs population isn’t evenly spread across age, gender, or racial groups. For example, there are many more whites in YS than blacks. Based on that, you would expect whites to receive higher numbers of warnings and citations than blacks (and they do). To make meaningful comparisons, we needed to use measures with a common baseline.” That is why we used the 2011-2015 census estimates as a common baseline to allow for a fair comparison.¹ The Statistical Consulting Center compared the proportion of residents in each race, gender, and age group that received at least one citation, to the proportions of the other groups, to determine whether there was a statistical relationship between belonging to a particular racial group and receiving one citation.

For example,

Table of Race by Citation			
Race	Citation		
Frequency Row Pct	At Least One	None	Total
All Other Races	10 6.29%	149 93.71%	159
Black/African American	65 13.08%	426 86.76%	497
White	285 9.42%	2742 90.58%	3027
Total	360	3317	3683

¹ U.S. Department of Commerce. Census Bureau. (2016). *2011-2015 American Community Survey 5-Year Estimates*. Retrieved from https://factfinder.census.gov/bkmk/table/1.0/en/ACS/15_5YR/DP05/1600000US3986940. Subjects’ ages have been categorized into the same ranges as in the census data, except with 15-19 and 20-24 combined into one category, 45-54 and 55-59 combined into another, and everyone 60 or older combined. Obviously, residents have moved to and out of Yellow Springs in that time frame, so these numbers are not exact. But they should serve as a relative baseline for each demographic.

Statistic test	DF	Value	Prob
Chi-Square	1	6.8921	0.0124 or 1.24%

(Adapted from Table 16 of the full report, p. 10)²

As you can see different proportions of each racial group received at least one citation. Although statistics cannot tell us why this happened, it can tell us the probability that the differences are purely due to random coincidence. If the differences are *not* due to random coincidence, it is said that there is a relationship between race and receiving at least one citation.

The value under the “Prob” heading represents the likelihood that the differences in the proportions of residents in each racial group who received at least one citation were due to random coincidence. This value is sometimes called the P-value. In this study any P-value below 0.05 (or 5%) was considered statistically significant. Therefore, according to the report, “Based on the P-value of 0.0124 in Table 16, there is strong evidence to suggest there is a significant association between race and getting at least one citation.” (p. 10)

2. Among Yellow Springs residents who received at least one citation, what was the average number of citations or warnings per person for each demographic group?

A second way to look at police practices around warnings and citations is to look at the average number of warnings or citations residents receive. For this analysis, we identified people who had received at least one warning or citation, and then looked at how many warnings/citations were issued per individual. One way to think of these data is: given that a person was issued one warning, how many additional warnings did that person receive? The same question was asked regarding citations. In this type of analysis (Analysis of Variance) it is possible to look at how the factors of age, gender, and race work in interaction, and compare police actions across different subgroups (i.e. young white males vs young black males). (It is important to note that a person who received seven citations in their only interaction with the YSPD and a person who received one citation every year during each of the 6 $\frac{7}{8}$ years under analysis would both be seen as having received 7 citations.)

For example,

² Note that the race of 41 of the residents who received citations is unknown. See “Notes on the Dataset” p. 3 for more information.

Analysis Variable : Number_of_Citations						
Race	Number of people	Number of citations	Mean	Std Dev	Minimum	Maximum
White	285	623 (corrected)	2.16	2.29	1.00	26.00
Black/African American	65	151	2.32	1.99	1.00	13.00
All Other Races	10	25	2.50	1.84	1.00	7.00

(Adapted from the full report, Table 24, p. 14)

The report finds that, “There was not strong evidence to suggest there is a significant difference in mean number of citations based on the race of the residents (P-value = 0.79).” (p. 14) (Remember, only P-values below 0.05 are significant.)

This may seem to contradict the finding in the above example. But remember, the two types of analyses are looking at two different populations, and are asking different questions of each.

Differences between the two types of analysis

The first type of analysis is looking at the entire population of Yellow Springs, all 3683 residents as estimated by the census bureau, and using the police data to determine what proportion of people in each group of residents received at least one citation. Whereas the second type of analysis is looking only at the 401 residents who were cited at least once, and looking at how many citations were received, on average by different demographic groups within those 401 people. Separately, the same analyses were run for written warnings.

Findings

The following table summarizes which statistical tests found significant differences and which did not.

Key Findings				
	% Warnings	Average # Warnings	% Citations	Average # Citations
Race	No significant differences	Depends on a combination of gender and race (see below)	YES Higher rates of citation to Black residents	No significant differences
Age	YES High rates of warnings to younger residents	No significant differences	YES High rates of citation to younger residents	Yes Higher averages for younger residents than for older
Gender	No significant differences	Depends on a combination of gender and race (see below)	YES High rates of citation to male residents	Yes Higher average for males than females
Interactions	None	YES - Average number of warnings issued to Black males higher than other groups, including Black females or White males	None	None

Citations

1. What proportion of each demographic group received at least one citation?

According to the “JSTF Data Analysis of Police Warnings and Citations,”

The analysis of % residents who receive at least one citation showed several significant effects. The results indicate that:

- the % of Black residents who are receiving citations is significantly greater than we would expect it to be based on the % of Blacks in the YS population.
- The % of male residents who are receiving citations is significant greater than we would expect, based on the % of males in the YS population.
- The % of residents in some age groups receiving citations is significant greater/less than we would expect based on census data, in the same pattern described above for warnings (e.g. younger age groups receive disproportionately more and older age groups receive disproportionately less compared to census data).

Again, from Bottomley’s report (pp. 10-11)

Table of Race by Citation			
Race	Citation		
Frequency Row Pct	At Least One	None	Total
All Other Races	10 6.29%	149 93.71%	159
Black/African American	65 13.08%	426 86.76%	497
White	285 9.42%	2742 90.58%	3027
Total	360	3317	3683

(Note: 41 cited residents' races were unknown)

Statistic test	DF	Value	Prob
Chi-Square	1	6.8921	0.0124 or 1.24%

(Adapted from the full report, Table 16, p. 14)

Based on the P -value of 0.0124 in Table 16, there is strong evidence to suggest there is a significant association between race and getting at least one citation. Odds ratios are given below in Table 17.

Relative Risk Ratio Estimates			
Effect	Point Estimate	95% Wald Confidence Limits	
Race All Other Races vs White	0.67	0.36	1.23
Race Black/African American vs White	1.39	1.08	1.79

Table 17: Relative risk ratios for race

From Bottomley's report (p. 11)

Table of Sex by Citation			
Sex	Citation		
Frequency Row Pct	At Least One	None	Total
Male	237 13.31	1543 86.69	1780
Female	164 8.62	1739 91.38	1903
Total	401	3282	3683

Statistic	DF	Value	Prob
Chi-Square	1	20.9099	<.0001

Table 18: Chi-square test for sex

Based on the P -value of <0.0001 in Table 17, there is strong evidence to suggest there is a significant association between sex and getting at least one citation. Specifically, the probability of receiving at least one citation is 1.54 times higher for male Yellow Springs residents than female Yellow Springs residents [95% confidence interval = (1.28, 1.87)].

From Bottomley's report (p. 12)

Table of Age by Citation			
Age	Citation		
Frequency Row Pct	At Least One	None	Total
10-14	12 4.46	257 95.54	269
15-24	87 24.72	265 75.28	352
25-34	94 34.06	182 65.94	276
35-44	73 13.44	470 86.56	543
45-59	78 9.47	746 90.53	824
60+	57 4.92	1101 95.08	1158
Total	401	3021	3422

Statistic	DF	Value	Prob
Chi-Square	5	261.6259	<.0001

Table 19: Chi-square test for age

Based on the P -value of <0.0001 in Table 19, there is strong evidence of a significant association between age and getting at least one citation. Relative risks are given below in Table 20.

Relative Risk Estimates			
Comparison	Point Estimate	95% Wald Confidence Limits	
Age 10-14 vs 60+	0.91	0.49	1.67
Age 15-24 vs 60+	5.02	3.68	6.86
Age 25-34 vs 60+	6.92	5.12	9.36
Age 35-44 vs 60+	2.73	1.96	3.80
Age 45-59 vs 60+	1.92	1.38	2.67

Table 20: Relative risks for age

All relative risks other than 10-14 vs 60+ are considered to be significant (since the only one that includes 1 in the confidence interval is 10-14 vs 60).

2. Among residents who received at least one citation, what was the average number of citations per person for each demographic group?

According to the "JSTF Data Analysis of Police Warnings and Citations,"

- the average number of citations does not differ [significantly] across racial groups.
- the average number of citations is markedly differently for males and females, with males getting a higher average number than females (and this is true across various age groups).
- Number of citations also differs by age, with people in younger age groups receiving more citations on average than those in older age groups

From Bottomley's report (p.14):

Analysis Variable : Number of Citations					
Age	N Obs	Mean	Std Dev	Minimum	Maximum
10-14	12	1.67	0.98	1.00	4.00
15-24	87	2.72	3.42	1.00	26.00
25-34	94	2.10	1.51	1.00	8.00
35-44	73	2.25	2.05	1.00	11.00
45-59	78	2.08	1.58	1.00	11.00
60+	57	1.33	0.79	1.00	5.00

Table 22: Descriptive statistics for citations by age

Analysis Variable : Number of Citations					
Sex	N Obs	Mean	Std Dev	Minimum	Maximum
Female	164	1.78	1.40	1.00	11.00
Male	237	2.38	2.50	1.00	26.00

Table 23: Descriptive statistics for citations by sex

Analysis Variable : Number_of_Citations					
Race	N Obs	Mean	Std Dev	Minimum	Maximum
White	285	2.16	2.29	1.00	26.00
Black/African American	65	2.32	1.99	1.00	13.00
All Other Races	10	2.50	1.84	1.00	7.00

Table 24: Descriptive statistics for citations by race

A three-way ANOVA was run with number of citations as the dependent variable and sex and race as independent variables. This time there were no interactions (which implies any differences in any group are constant across the other groups) so the effects of each variable could be analyzed directly. There was not strong evidence to suggest there is a significant difference in mean number of citations based on the race of the residents (P -value = 0.79). However, there was strong evidence to suggest there was a significant difference in mean citations between males and females (P -value = 0.0073). Based on the difference between the least square means, males received, on average, 0.65 more citations than females. There was also strong evidence to suggest there was a significant difference between the mean number of citations received by residents aged 15-24 years and 60+ years (P -value = 0.0048). On average, residents aged 15-24 years received 1.43 more citations than those aged 60+ years.

Warnings

1. What proportion of each demographic group received at least one warning?

According to the "JSTF Data Analysis of Police Warnings and Citations,"

- the % of warnings issued to people of different racial groups and gender groups aligns with what you'd expect, based on their representation in the YS population;
- the % of warnings departs significantly from census data across age groups. Younger residents, particularly 15-24 and 25-34 year-olds, were issued warnings at much higher rates compared to the % of those groups in the larger YS population, while people 60+ get a lower % of warnings compared to census data %s.

From Bottomley's report:

Table of Age by Warning			
Age	Warning		
Frequency Row Pct Col Pct	At Least One	None	Total
10-14	2 0.74 0.22	267 99.26 10.64	269
15-24	175 49.72 19.17	177 50.28 7.05	352
25-34	159 57.61 17.42	117 42.39 4.66	276
35-44	130 23.94 14.24	413 76.06 16.46	543
45-59	248 30.10 27.16	576 69.90 22.96	824
60+	199 17.18 21.80	959 82.82 38.22	1158
Total	913	2509	3422

Statistic	DF	Value	Prob
Chi-Square	5	383.3279	<.0001

Table 6: Chi-square test for age group

Based on the P -value of < 0.0001 in Table 6, there is strong evidence to suggest there is a significant association between age group and whether the individual was given at least one warning.

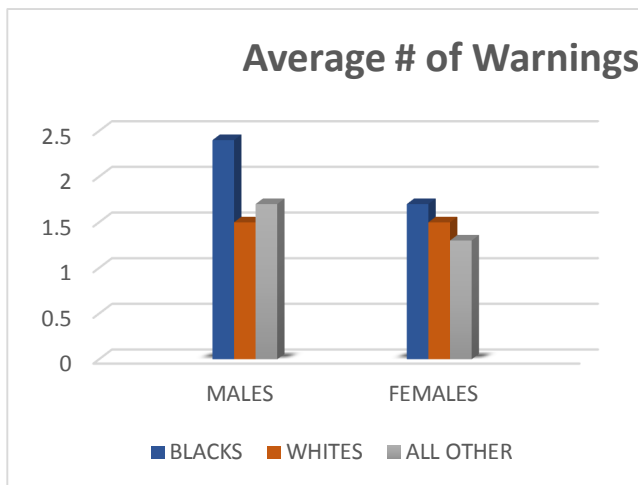
Relative Risk Estimates			
Comparison	Point Estimate	95% Wald Confidence Limits	
Age 10-14 vs 60+	0.04	0.01	0.17
Age 15-24 vs 60+	2.89	2.45	3.41
Age 25-34 vs 60+	3.35	2.85	3.94
Age 35-44 vs 60+	1.39	1.15	1.70
Age 45-59 vs 60+	1.75	1.49	2.06

Table 7: Relative risk estimates for age groups

2. Among residents who received at least one warning, what was the average number of warnings per person for each demographic group?

According to the “JSTF Data Analysis of Police Warnings and Citations,”

- The average number of warnings differs markedly depending both on a persons’ race and their gender, but not their age. Specifically, Black males are issued a significantly higher number of warnings, on average, compared to other gender and racial groups. This finding held across all ages levels.



Average # of Warnings: Race X Gender

	MALES	FEMALES
BLACKS	2.4	1.7
WHITES	1.5	1.5
ALL OTHER	1.7	1.3

Conclusion

The analyses conducted for this report are exploratory, and findings are open to differing interpretations and explanations. However, the fact that Black male residents of Yellow Springs received significantly more warnings than other groups, and Black residents of both genders received at least one citation at significantly higher proportional rates than other groups, requires attention from the JSTF, the YSPD, and the Yellow Springs community.

Notes on the Dataset

The data included in the analysis covers the period from April 1, 2010 to December 31, 2016.

Warnings refer to written warnings (oral warnings were not recorded by the YSPD). Citations include the combined misdemeanor and minor misdemeanor criminal, traffic, and juvenile citations; warnings include the criminal and traffic warnings.

The analysis was conducted on citations and warnings issued to individuals living within Yellow Springs municipal limits. Residency was based on the street address associated with a warning or citations. The

ticket recipient's street address was available for almost every citation and warning in the initial data set (> 99.8% for both warnings and citations).

Data were provided by the Yellow Springs Police Department, based on their records of warnings and citations issued during that period. YSPD officers record the age, gender, and race of each individual who receives a warning or citation. Date of birth and gender are factual and were usually determined by an individual's driver's license. Race was guessed by the officer issuing the citation—if the officer could not discern someone's race, then their race was left out of the record.

There were a number of instances where race data was missing from the YSPD's records: 23% of warnings and 13% of citations received by Yellow Springs residents did not note the residents' races. Age data and gender data was available for all cited YS residents, but not for all YS residents who only received written warnings. Because some individuals appeared in the data multiple times, John Hempfling was able to use these multiple records to fill-in some of the missing data. In the analysis, race was missing for 22% of YS subjects who received at least one warning, and 10% of YS residents who received at least one citation.

The analysis employed three racial categories: White, Black/African American, and All Other (American Indian/Native Alaskan, Asian, and Mixed); it included six age categories (10-14, 15-24, 25-34, 35-44, 45-59, 60 and older); and, two gender categories (male, female).



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DATE: 6 November 2017

TO: Hempfling, John

FROM: Mike Bottomley

SUBJECT: Yellow Springs Residents Citations and Warnings Report

Dear Mr. Hempfling,

Here are the results of the warnings and citations data analysis for Yellow Springs municipal residents for the time period beginning on April 1, 2010 and ending on December 29, 2016. You are interested in determining if any race, sex, or age group is getting a disproportionate number of warnings or citations. Warnings in this report refer only to written warnings, oral warnings are not taken into account. For the purposes of this analysis, criminal, traffic, and juvenile citations are being combined into one category, as are criminal and traffic warnings. You have the number of citations and warnings issued to residents of Yellow Springs during this period. In addition, you have the recipients' age, sex, and race. There are three options for race: White, Black/African American, and All Other (which is comprised of American Indian/Native Alaskan, Asian, and Mixed). Since an individual can show up in the data set multiple times the observations cannot be treated as independent. To deal with this, the data are being analyzed two ways:

- (i) Yes/No to individual was given at least one citation in the time period
- (ii) Total number of warnings/citations per individual

For (i) the total number of unique individuals is being counted. This is then compared to census records for that demographic and a chi-square test of independence is done to test for an association between the variable of interest and warnings or citations. The census data are estimates from 2011-2015. Subjects' ages have been categorized into the same ranges as in the census data, except with 15-19 and 20-24 combined into one category, 45-54 and 55-59 combined into another, and everyone 60 or older combined. Obviously, residents have moved to and out of Yellow Springs in that time frame, so these numbers are not exact. But they should serve as a relative baseline for each demographic. This attempts to answer the question, "who is being stopped and is it disproportionate relative to other groups?"

For (ii) the total number of warnings/citations are being analyzed. These are being analyzed via ANOVAs with number of warnings or citations as the dependent variable and age group, sex, and race as independent variables. This attempts to answer "when an individual is cited or warned, how many

warnings and citations are different demographics getting, on average?ö Since the ages of individuals in the data set are naturally changing over time, it is possible for someone to start in one age group and end up in the next age group up (however they can never go two or more age groups up). For this analysis the age group that an individual appears in the most number of times is used as their age group. In the event that someone is in two age groups the same number of times, the lower age group is used.

Due to the exploratory nature of this data, no correction was made to alpha to control for potentially inflated type I error rate (claiming there is statistical significance when in reality there is not and the results were just due to chance) and a level of significance $\alpha = 0.05$ was used throughout. SAS version 9.4 (SAS Systems Inc., Carey, NC) was used for all analyses.

I. Warnings

i. Yes/No to “individual was given at least one warning in the time period”

Frequency tables of counts of warnings given to unique Yellow Springs residents are listed below in Tables 1 - 3.

Race				
Race	Count in Data	Percent of Data (%)	Yellow Springs Representation Estimate (%)	Yellow Springs Representation Margin of Error (%)
American Indian/Alaskan Native	4	0.56	0	0.7
Asian	9	1.25	1.1	1.81
Black/African American	112	15.56	13.5	2.9
Other, includes multi-racial	15	2.08	3.2	2.1
White	580	80.56	82.2	3.8
Frequency Missing = 201				

Table 1: Warnings by race

Sex				
Sex	Count in Data	Percent of Data (%)	Yellow Springs Representation Estimate (%)	Yellow Springs Representation Margin of Error (%)
Female	459	50.33	51.7	3.7
Male	453	49.67	48.3	3.7
Frequency Missing = 9				

Table 2: Warnings by sex

Age				
Age	Count in Data	Percent of Data (%)	Yellow Springs Representation Estimate (%)	Yellow Springs Representation Margin of Error (%)
10-14	2	0.22	7.3	2.3
15-24	175	19.21	4.8	2.1
25-34	159	17.45	7.5	2.5
35-44	130	14.27	14.7	2.9
45-59	247	27.11	11.2	2.9
60+	198	21.73	7.9	2.1
Frequency Missing = 10				

Table 3: Warnings by age group

Note: for the combined categories I simply averaged the census estimates for representation and margin of error

The results of the chi-square tests of independence are given below in Tables 4 & 6. This test compares the observed frequencies in the cells to their expected frequencies to test for an association between the two variables. The "None" column is the estimate given in the census data minus the number in the "At Least One" column. It represents the number of Yellow Springs residents who were issued no warnings in the time period. The top number in each cell is the observed count and the bottom number is the percentage for that row (each row sums to 100%). For example, the top left cell in Table 5 indicates that 19.16% of white Yellow Springs residents were issued at least one warning in the duration of the study (580 out of the 3,027 in the census estimate, with the 2,447 in the "None" cell being 3,027 - 580).

Table of Race by Warning			
Race	Warning		
Frequency Row Pct	At Least One	None	Total
White	580 19.16	2447 80.84	3027
Black/African American	112 22.54	385 77.46	497
All Other	28 17.61	131 82.39	159
Total	720	2963	3683

Statistic	DF	Value	Prob
Chi-Square	2	3.4880	0.1748

Table 4: Chi-square test for **race**

Based on the P -value of 0.17 in Table 4, there is not strong evidence to suggest there is a significant association between race and getting at least one warning.

Table of Sex by Warning			
Sex	Warning		
Frequency Row Pct	At Least One	None	Total
Male	453 25.45	1327 74.55	1780
Female	459 24.12	1444 75.88	1903
Total	912	2771	3683

Statistic	DF	Value	Prob
Chi-Square	1	0.8727	0.3502

Table 5: Chi-square test for **sex**

Based on the P -value of 0.35 in Table 5, there is not strong evidence to suggest there is a significant association between sex and getting at least one warning.

Table of Age by Warning			
Age	Warning		
Frequency Row Pct Col Pct	At Least One	None	Total
10-14	2 0.74 0.22	267 99.26 10.64	269
15-24	175 49.72 19.17	177 50.28 7.05	352
25-34	159 57.61 17.42	117 42.39 4.66	276
35-44	130 23.94 14.24	413 76.06 16.46	543
45-59	248 30.10 27.16	576 69.90 22.96	824
60+	199 17.18 21.80	959 82.82 38.22	1158
Total	913	2509	3422

Statistic	DF	Value	Prob
Chi-Square	5	383.3279	<.0001

Table 6: Chi-square test for age group

Based on the P -value of < 0.0001 in Table 6, there is strong evidence to suggest there is a significant association between age group and whether the individual was given at least one warning. Relative risks were calculated to quantify this association. Relative risks in this context are the proportion of residents in a given age group who got at least one warning divided by the proportion of residents in the 60+ age group who got at least one warning. For example, the relative risk for the 15-24 group compared to the 60+ group is $(175/352)/(199/1158) = 2.89$. This means that the probability of getting at least one warning is 2.89 times higher for someone in the 15-24 group than someone in the 60+ group. The 95% confidence limits give us a range of plausible values for the true relative risk. For example, the relative risk estimate for 15-24 vs 60+ is 2.89, but at 95% confidence the true relative risk could feasibly be as low as 2.45 or as high as 3.41. The rest of the relative risks are given below in Table 7.

Relative Risk Estimates			
Comparison	Point Estimate	95% Wald Confidence Limits	
Age 10-14 vs 60+	0.04	0.01	0.17
Age 15-24 vs 60+	2.89	2.45	3.41
Age 25-34 vs 60+	3.35	2.85	3.94
Age 35-44 vs 60+	1.39	1.15	1.70
Age 45-59 vs 60+	1.75	1.49	2.06

Table 7: Relative risk estimates for age groups

(ii) Total number of warnings per individual

Descriptive statistics by the various demographics are given below in Tables 8 ó 11.

Analysis Variable : Number of Warnings							
Age	Sex	Race	N Obs	Mean	Std Dev	Minimum	Maximum
10-14	Male	Black/African American	1	2.00	.	2.00	2.00
		All Other Races	1	1.00	.	1.00	1.00
15-24	Female	White	57	1.51	0.78	1.00	4.00
		Black/African American	8	1.25	0.71	1.00	3.00
		All Other Races	6	1.33	0.52	1.00	2.00
	Male	White	56	1.61	1.11	1.00	6.00
		Black/African American	12	2.25	1.91	1.00	6.00
		All Other Races	3	2.67	1.53	1.00	4.00
25-34	Female	White	53	1.51	0.95	1.00	5.00
		Black/African American	6	1.50	0.84	1.00	3.00
		All Other Races	2	1.00	0.00	1.00	1.00
	Male	White	51	1.59	0.85	1.00	4.00
		Black/African American	8	2.50	1.69	1.00	5.00
		All Other Races	2	2.00	1.41	1.00	3.00
35-44	Female	White	48	1.52	0.97	1.00	5.00
		Black/African American	9	1.89	0.78	1.00	3.00
	Male	White	37	1.54	1.02	1.00	5.00
		Black/African American	7	1.57	0.53	1.00	2.00
		All Other Races	2	1.50	0.71	1.00	2.00
45-59	Female	White	74	1.27	0.65	1.00	5.00

Analysis Variable : Number of Warnings							
Age	Sex	Race	N Obs	Mean	Std Dev	Minimum	Maximum
		Black/African American	20	1.95	1.47	1.00	6.00
		All Other Races	3	1.67	0.58	1.00	2.00
	Male	White	82	1.54	1.14	1.00	8.00
		Black/African American	19	2.89	2.60	1.00	9.00
		All Other Races	3	1.00	0.00	1.00	1.00
60+	Female	White	58	1.57	0.88	1.00	5.00
		Black/African American	10	1.40	0.52	1.00	2.00
		All Other Races	3	1.00	0.00	1.00	1.00
	Male	White	57	1.44	0.85	1.00	5.00
		Black/African American	10	2.40	2.22	1.00	7.00
		All Other Races	2	1.50	0.71	1.00	2.00

Table 8: Descriptive statistics for warnings by **age, sex, and race**

Analysis Variable : Number_of_Warnings					
Age	N Obs	Mean	Std Dev	Minimum	Maximum
10-14	2	1.50	0.71	1.00	2.00
15-24	175	1.54	1.02	1.00	6.00
25-34	159	1.53	0.92	1.00	5.00
35-44	130	1.50	0.87	1.00	5.00
45-59	247	1.55	1.22	1.00	9.00
60+	198	1.47	0.90	1.00	7.00

Table 9: Descriptive statistics for warnings by **age**

Analysis Variable : Number of Warnings					
Sex	N Obs	Mean	Std Dev	Minimum	Maximum
Female	459	1.45	0.83	1.00	6.00
Male	453	1.59	1.17	1.00	9.00

Table 10: Descriptive statistics for warnings by **sex**

Analysis Variable : Number of Warnings					
Race	N Obs	Mean	Std Dev	Minimum	Maximum
White	580	1.50	0.92	1.00	8.00
Black/African American	112	2.06	1.68	1.00	9.00
All Other Races	28	1.46	0.79	1.00	4.00

Table 11: Descriptive statistics for warnings by race

A three-way ANOVA, which tests for mean differences amongst the factor levels of the groups, was run with number of warnings as the dependent variable and age group, sex, and race as independent variables. There was no evidence of a three-way interaction, but there was strong evidence of a two-way interaction between sex and race (P -value = 0.0071). This implies that the effect of sex is not constant across all three levels of race (or vice-versa). To investigate the interaction, Tukey's multiple comparison procedure was performed, which compares each of the six sex/race combinations to each other and controls the level of significance for the number of comparisons made. There was strong evidence to suggest that the mean number of warnings received by black males was significantly greater than the mean number of warnings for each of the other groups except for the "All Other Males" group. There was not sufficient evidence that there were any significant differences in the age groups (P -value = 0.96). The results of the significant comparisons and least squared mean differences (these are just means that control for unequal sample sizes) are given below in Table 12. For example, on average, black males in the data set received 0.91 more warnings than white males.

Comparison	Mean Difference	P -value
Black Males vs White Males	0.91	< 0.0001
Black Males vs All Other Males	0.71	0.26
Black Males vs White Females	0.99	< 0.0001
Black Males vs Black Females	0.77	0.0028
Black Males vs All Other Females	1.17	0.0038

Table 12: Results from Tukey's multiple comparison procedure (all are significant except Black Males vs All Other Males)

II. Citations

(i) Yes/No to "individual was given at least one citation in the time period"

The same process was repeated for citations. Frequency tables of counts of warnings given to unique Yellow Springs residents are listed below in Tables 13 - 15.

Race				
Race	Count in Data	Percent of Data (%)	Yellow Springs Representation Estimate (%)	Yellow Springs Representation Margin of Error (%)
American Indian/Alaskan Native	2	0.56	0	0.7
Asian	2	0.56	1.1	1.81
Black/African American	65	18.06	13.5	2.9
Other, includes multi-racial	6	1.67	3.2	2.1
White	285	79.17	82.2	3.8
Frequency Missing = 41				

Table 13: Citations by race

Sex				
Sex	Count in Data	Percent of Data (%)	Yellow Springs Representation Estimate (%)	Yellow Springs Representation Margin of Error (%)
Female	164	40.90	51.7	3.7
Male	237	59.10	48.3	3.7

Table 14: Citations by sex

Age				
Age	Count in Data	Percent of Data (%)	Yellow Springs Representation Estimate (%)	Yellow Springs Representation Margin of Error (%)
10-14	12	2.99	7.3	2.3
15-24	87	21.70	4.8	2.1
25-34	94	23.44	7.5	2.5
35-44	73	18.20	14.7	2.9
45-59	78	19.45	11.2	2.9
60+	57	14.21	7.9	2.1

Table 15: Citations by age

The results of the chi-square tests are given in Tables 16-18.

Table of Race by Citation			
Race	Citation		
Frequency Row Pct	At Least One	None	Total
All Other Races	10 6.29	149 93.71	159
Black/African American	65 13.08	432 86.92	497
White	285 9.42	2742 90.58	3027
Total	360	3323	3683

Statistic	DF	Value	Prob
Chi-Square	1	6.8921	0.0124

Table 16: Chi-square test for race

Based on the *P*-value of 0.0124 in Table 16, there is strong evidence to suggest there is a significant association between race and getting at least one citation. Relative risks are given below in Table 17.

Odds Ratio Estimates			
Effect	Point Estimate	95% Wald Confidence Limits	
Race All Other Races vs White	0.67	0.36	1.23
Race Black/African American vs White	1.39	1.08	1.79

Table 17: Relative risks for race

Since the confidence interval for the relative risk for "All Other Races vs White" includes 1 (which happens when the risks are the same), we would not consider the relative risk estimate of 0.67 to be significant and therefore not draw any conclusions about it. However, the relative risk for "Black/African American vs White" is statistically significant. The estimated probability of receiving at least one citation is 1.39 times higher for a black Yellow Springs resident than a white Yellow Springs resident.

Table of Sex by Citation			
Sex	Citation		
Frequency Row Pct	At Least One	None	Total
Male	237 13.31	1543 86.69	1780
Female	164 8.62	1739 91.38	1903
Total	401	3282	3683

Statistic	DF	Value	Prob
Chi-Square	1	20.9099	<.0001

Table 18: Chi-square test for sex

Based on the *P*-value of <0.0001 in Table 17, there is strong evidence to suggest there is a significant association between sex and getting at least one citation. Specifically, the probability of receiving at least one citation is 1.54 times higher for male Yellow Springs residents than female Yellow Springs residents [95% confidence interval = (1.28, 1.87)].

Table of Age by Citation			
Age	Citation		
Frequency Row Pct	At Least One	None	Total
10-14	12 4.46	257 95.54	269
15-24	87 24.72	265 75.28	352
25-34	94 34.06	182 65.94	276
35-44	73 13.44	470 86.56	543
45-59	78 9.47	746 90.53	824
60+	57 4.92	1101 95.08	1158
Total	401	3021	3422

Statistic	DF	Value	Prob
Chi-Square	5	261.6259	<.0001

Table 19: Chi-square test for age

Based on the *P*-value of <0.0001 in Table 19, there is strong evidence of a significant association between age and getting at least one citation. Relative risks are given below in Table 20.

Relative Risk Estimates			
Comparison	Point Estimate	95% Wald Confidence Limits	
Age 10-14 vs 60+	0.91	0.49	1.67
Age 15-24 vs 60+	5.02	3.68	6.86
Age 25-34 vs 60+	6.92	5.12	9.36
Age 35-44 vs 60+	2.73	1.96	3.80
Age 45-59 vs 60+	1.92	1.38	2.67

Table 20: Relative risks for age

All relative risks other than 10-14 vs 60+ are considered to be significant (since the only one that includes 1 in the confidence interval is 10-14 vs 60).

(ii) Total number of citations per individual

Descriptive statistics for total number of citations per individual are given below in Tables 21-24.

Analysis Variable : Number_of_Citations							
Age	Sex	Race	N Obs	Mean	Std Dev	Minimum	Maximum
10-14	Female	Black/African American	1	1.00	.	1.00	1.00
		All Other Races	1	1.00	.	1.00	1.00
	Male	White	6	1.67	1.21	1.00	4.00
		Black/African American	2	2.50	0.71	2.00	3.00
15-24	Female	White	19	1.74	1.10	1.00	5.00
		Black/African American	2	1.50	0.71	1.00	2.00
	Male	White	42	3.29	4.36	1.00	26.00
		Black/African American	13	2.92	3.30	1.00	13.00
		All Other Races	1	7.00	.	7.00	7.00
25-34	Female	White	37	1.89	1.45	1.00	8.00
		Black/African American	2	1.00	0.00	1.00	1.00
		All Other Races	1	3.00	.	3.00	3.00
	Male	White	34	2.29	1.62	1.00	6.00
		Black/African American	11	2.55	1.75	1.00	7.00
		All Other Races	1	1.00	.	1.00	1.00
35-44	Female	White	29	2.17	2.12	1.00	11.00
		Black/African American	5	1.60	0.89	1.00	3.00
	Male	White	24	2.50	2.28	1.00	10.00
		Black/African American	5	4.00	2.24	1.00	7.00
		All Other Races	1	2.00	.	2.00	2.00
45-59	Female	White	24	1.75	1.29	1.00	5.00
		Black/African American	6	1.67	1.21	1.00	4.00
		All Other Races	3	2.67	1.15	2.00	4.00
	Male	White	27	2.44	2.04	1.00	11.00
		Black/African American	12	2.17	1.40	1.00	4.00
		All Other Races	1	2.00	.	2.00	2.00
60+	Female	White	18	1.39	1.04	1.00	5.00
	Male	White	25	1.28	0.61	1.00	3.00
		Black/African American	6	1.67	1.03	1.00	3.00
		All Other Races	1	1.00	.	1.00	1.00

Table 21: Descriptive statistics for citations by age, sex, and race

Analysis Variable : Number of Citations					
Age	N Obs	Mean	Std Dev	Minimum	Maximum
10-14	12	1.67	0.98	1.00	4.00
15-24	87	2.72	3.42	1.00	26.00
25-34	94	2.10	1.51	1.00	8.00
35-44	73	2.25	2.05	1.00	11.00
45-59	78	2.08	1.58	1.00	11.00
60+	57	1.33	0.79	1.00	5.00

Table 22: Descriptive statistics for citations by **age**

Analysis Variable : Number of Citations					
Sex	N Obs	Mean	Std Dev	Minimum	Maximum
Female	164	1.78	1.40	1.00	11.00
Male	237	2.38	2.50	1.00	26.00

Table 23: Descriptive statistics for citations by **sex**

Analysis Variable : Number_of_Citations					
Race	N Obs	Mean	Std Dev	Minimum	Maximum
White	285	2.16	2.29	1.00	26.00
Black/African American	65	2.32	1.99	1.00	13.00
All Other Races	10	2.50	1.84	1.00	7.00

Table 24: Descriptive statistics for citations by **race**

A three-way ANOVA was run with number of citations as the dependent variable and sex and race as independent variables. This time there were no interactions (which implies any differences in any group are constant across the other groups) so the effects of each variable could be analyzed directly. There was not strong evidence to suggest there is a significant difference in mean number of citations based on the race of the residents (P -value = 0.79). However, there was strong evidence to suggest there was a significant difference in mean citations between males and females (P -value = 0.0073). Based on the difference between the least square means, males received, on average, 0.65 more citations than females. There was also strong evidence to suggest there was a significant difference between the mean number of citations received by residents aged 15-24 years and 60+ years (P -value = 0.0048). On average, residents aged 15-24 years received 1.43 more citations than those aged 60+ years.

Let me know if you have any questions pertaining to anything in this report or any other aspect of the research.

Sincerely,

Mike Bottomley



JOSH MANDEL
STATE TREASURER OF OHIO

STAR

State Treasury Asset Reserve

THE PROGRAM

The State Treasury Asset Reserve of Ohio (STAR) allows all Ohio government subdivisions, including counties, cities, school districts, townships, villages, public libraries, fire districts, park and recreation districts, and transportation boards, to invest in a highly-rated public investment pool. The State Treasurer's office acts as an advisor and administrator, managing STAR Ohio's portfolio and working to maximize returns for government subdivisions.

Since 1995 STAR Ohio has maintained Standard & Poor's highest rating of AAAM, a testament to the soundness and security of the fund for a local government investment pool. In fact, in 2011 STAR Ohio again received a AAAM rating from Standard & Poor's even amidst global economic uncertainty and downgrades of 14 other local government investment pools nationwide. STAR Ohio's AAAM rating affirms that the investments of Ohio school districts and local governments remain safe and secure in this top-rated fund, while generally earning higher yields than comparable investment options.

Pooling investments through STAR Ohio provides a powerful resource for government subdivisions. STAR Ohio offers increased earning power of a sizable pool. This program allows public fund managers, regardless of size, to pool their investments enabling all participants equal buying power and the ability to receive the same rate of return on their investment.

INVESTMENTS

STAR Ohio funds are invested in: U.S. Treasuries, U.S. government agency securities, eligible commercial paper, corporate bonds, repurchase agreements, money market funds, and collateralized bank deposits.

INVESTOR BENEFITS

Investors are offered 24-hour access to information on their accounts by calling our toll-free access line 1-800-648-STAR (7827). The fund permits daily deposits and withdrawals, even if the deposit is only for 24 hours. Full-time portfolio management is provided by professional State Treasurer personnel. Cost of administering STAR Ohio is among the lowest in the country. State statutes under the Uniform Depository Act are strictly followed. Daily rates are posted at: www.STAROhio.com.

INVESTOR DATA

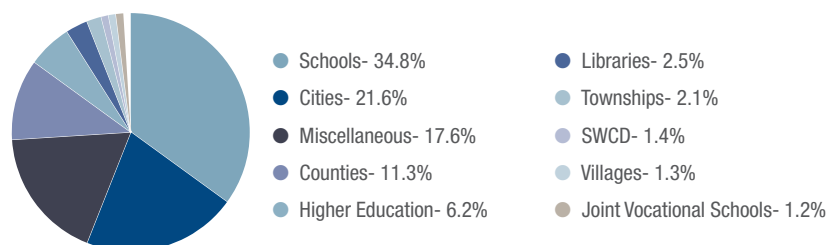
As of October 31, 2017:

Assets: \$9.1 billion **Current Yield:** 1.23% **Rating:** Standard & Poor's: AAAM (highest rating)

Investment Policy

The investment objectives of STAR Ohio are the preservation of capital, the maintenance of liquidity, and providing current income. Since inception, STAR Ohio has provided participants over \$4 billion in interest while never losing invested principal or limiting participant withdrawals. (STAR Ohio's Investment Policy Statement is available at www.STAROhio.com)

Participant Allocation



Additional information on reverse



WIRE INSTRUCTIONS & TRANSACTION INFORMATION

Investment by Bank Wire

An investment may be made by bank wire of funds. Contact STAR Ohio at 1-800-648-STAR (7827) for bank wire instructions.

Redemption Requests

Contact STAR Ohio at 1-800-648-STAR (7827) by 1:30pm EST for same day wire redemption requests. Transaction requests received after 1:30pm will be completed the following business day.

Online Transactions

Online transactions available at www.STAROhio.com. Please note that online transactions are completed via the ACH system with a one day delay. Additional info available online or by calling STAR Ohio at 1-800-648-STAR (7827).

ADVISORS/ ADMINISTRATORS/ CUSTODIAN/ AUDITOR

Investment Advisor & Administrator: State Treasurer of Ohio **Custodian:** Huntington National Bank, Columbus, Ohio

Transfer Agent: Ultimus Fund Solutions, Cincinnati, Ohio **Co-Administrator:** Public Funds Administrators, Dublin, Ohio

Co-Investment Advisor: Meeder Investment Management, Dublin, Ohio and United American Capital Corporation, Worthington, Ohio

Auditor: Plante Moran, Columbus, Ohio

CONTACT INFORMATION

Questions about STAR Ohio

STAR Ohio
Phone: 1-800-648-STAR (7827)
Fax: 614-923-1149
info@starohio.com

Or

State Treasurer's Office
1-800-228-1102
constituentaffairs@tos.ohio.gov

Investments by check

STAR Ohio
P.O. Box 46794
Cincinnati, OH 45246-0794

All other paperwork

STAR Ohio
P.O. Box 7177
Dublin, OH 43017

Audit confirms can be accepted
by fax, email or regular mail.

RESOURCES

Participant information available at www.STAROhio.com

- Current Yield
- Current & Historical Account Statements
- Initiate ACH transactions
- Informational Booklet & Application
- Annual Reports

INVESTOR FEEDBACK

The State Treasurer's office is currently working to provide more electronic communications as well as additional online features. The Treasurer's office welcomes your feedback on ways to improve the resources STAR currently offers. Please share your thoughts by calling 1-800-648-STAR (7827).

Press Release



Greene County Public Health
A Safe Communities guarantee of Ohio Department of Public Safety
Ohio State Highway Patrol-Traffic Safety Division
360 Wilson Drive, Xenia, OH 45385



Contact Person

Jillian Drew, Safe Communities Coordinator
937-374-5683; jdrew@gcph.info

FOR IMMEDIATE RELEASE
Monday, November 13, 2017

-FOR IMMEDIATE RELEASE-
Local High Schools compete for 100% Compliance in the
Fall 2017 Seat Belt Challenge

XENIA, OH—The Greene County Safe Communities Coalition is conducting the annual Fall Seat Belt Challenge until November 22 to raise awareness about the importance of seat belt use and encourage students to buckle up every trip, every time.

In the weeks leading up to the Thanksgiving break, all nine local high schools – Beavercreek, Bellbrook, Cedarville, Fairborn Greene County Career Center, Greeneview, Legacy Christian Academy, Xenia, and Yellow Springs – will be sharing announcements about the dangers of driving unbelted, statistics, and encouraging messages, with an unannounced seat belt observation held at the school. The high school with the highest percentage of students buckled as they leave the school grounds at the end of the observation day will win the challenge. The winning school will receive \$500 from the All State Foundation.

The last three challenges have seen Fairborn High School take away the prize with 100% compliance among their student body. According to Jillian Drew, Safe Communities Coordinator for Greene County Public Health, “I am hoping that the other local high schools will give Fairborn a run for their money and step up their game this time! Too many of our friends and neighbors in Greene County have died this year in motor vehicle crashes, and the education has to start with our newest drivers.”

For more information on the Greene County Safe Communities Coalition, please contact coordinator Jillian Drew at 937-374-5683 or jdrew@gcph.info.

Greene County Public Health...
Your Trusted Local Public Health Authority Since 1920

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