



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

February 6, 2017

**Lisa Madigan**

ATTORNEY GENERAL

*Via Hand Delivery*

The Honorable Bruce Rauner

Office of the Governor

16<sup>th</sup> Floor

James R. Thompson Center

Chicago, IL 60601

Dear Governor Rauner:

As a result of the President's recent Executive Orders, the lives of immigrants, refugees, and asylees who live in Illinois and across the United States have been upended. The Administration's Executive Orders have closed our country's doors to many vulnerable people seeking refuge from violence and hatred. America is defined by the immigrants who came here in search of a better life. These Executive Orders have threatened what it means to be an American and the rich history of inclusion and diversity that has made our country great. They have created a culture of fear that signals to many immigrants who live here and contribute to Illinois' economy that they are not welcome in our state or country. The Executive Orders also raise serious legal questions that have resulted in challenges in courts throughout the country and will continue to prompt litigation. I write to urge you to use your authority as the Governor of one of the most diverse states in the nation to protect all of the residents of Illinois – along with our employers and educational institutions – from the harm caused by these executive actions.

### **The Contributions of Immigrants in Illinois**

One of Illinois' greatest strengths is our diversity. Nearly 1.8 million, or one in seven, Illinois residents were born in other countries, placing Illinois sixth among all states in the number of foreign-born residents. Cook County ranks third among U.S. counties in its number of foreign-born residents.<sup>1</sup> In the City of Chicago, one out of five residents is an immigrant. Chicago is properly described as "one of the most ethnically, racially and religiously diverse cities in the world."<sup>2</sup> For just the most recent time period of October 1, 2016 through January 31, 2017, 1,001 refugees arrived in Illinois.<sup>3</sup>

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<sup>1</sup> *U.S. Immigrant Population by State and County*, Migration Policy Institute, <http://bit.ly/1PYutsA> (last visited Feb. 6, 2017); *The Contributions of New Americans in Illinois* at 1, *New American Economy* (Aug. 2016), <http://bit.ly/2kRVAr0>.

<sup>2</sup> Chicago Municipal Code § 2-173-005.

<sup>3</sup> *Refugee Arrivals by Placement State and Nationality*, Department of State Office of Admissions – Refugee Processing Center (Feb. 6, 2017), <http://bit.ly/2kFvG02>.



The benefits of immigration are immense. A recent study found that Illinois businesses owned by immigrants produced \$2.6 billion in business income in 2014, with immigrants composing 22% of the entrepreneurs in our State and immigrant-owned businesses employing over 280,000 people.<sup>4</sup> Illinois immigrants paid \$5.2 billion in state and local taxes that same year.<sup>5</sup> Immigrants make up about 14% of our state's population, yet they represent over 23% of our science, technology, engineering and math workers, as well as 48.1% of doctorate holders in those fields.<sup>6</sup> These are among the reasons cities and communities across our region have been seeking more immigration, not less.<sup>7</sup>

In addition, international faculty and students strengthen our world-class academic and research institutions. The University of Illinois at Urbana-Champaign, our State's largest public university, ranks second among the country's public universities in the number of international students, for a total of 10,545 in 2016, and twelfth in the number of international faculty and scholars.<sup>8</sup> The University of Illinois has over 300 enrolled students from the countries affected by the Executive Orders and has already admitted 20 students for Fall 2017 from the affected countries.

Further, studies have shown immigrants are less likely to commit crimes and to use public benefit programs.<sup>9</sup> In fact, research shows that an increase in immigrants tends to reduce crime and neighborhoods with more immigrants have lower crime rates, including both minor offenses and serious violent crimes.<sup>10</sup>

For all these reasons, I urge you to take immediate action to protect immigrants living throughout Illinois.

### **Illinois Law Enforcement Should Not Be Used to Enforce Federal Immigration Policies**

In particular, I urge you to refuse to enter into any agreement that would deputize Illinois law enforcement personnel as federal immigration officers. Executive Orders 13767 and 13768, signed on January 25th, direct the Secretary of Homeland Security to seek agreements with governors and local officials to authorize our law enforcement officers "to perform the functions

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<sup>4</sup> *The Contributions of New Americans in Illinois* at 2, New American Economy (Aug. 2016), <http://bit.ly/2kRVaro>.

<sup>5</sup> *Id.* at 7.

<sup>6</sup> *Id.* at 12; *Help Wanted: The Role of Foreign Workers in the Innovation Economy* at 21, Information Technology Industry Council, Partnership for a New American Economy & U.S. Chamber of Commerce (Nov. 2012), <http://bit.ly/2kr8P8r>.

<sup>7</sup> Will Connors, *Cities in Midwest, Rust Belt Say They Need Immigrants*, Wall St. J. (Jan. 31, 2017 2:23 PM), <http://on.wsj.com/2kdD7ZA>.

<sup>8</sup> *Fall 2016 International Statistics* at 2, Univ. of Ill. at Urbana-Champaign (2016), <http://bit.ly/2jCDkbW>.

<sup>9</sup> Richard Pérez-Peña, *Contrary to Trump's Claims, Immigrants Are Less Likely to Commit Crimes*, N.Y. Times (Jan. 26, 2017), <http://nyti.ms/2jklKo3> (citing multiple studies); Leighton Ku & Brian Bruen, *Poor Immigrants Use Public Benefits at a Lower Rate than Poor Native-Born Citizens*, Cato Institute (Mar. 4, 2013), <http://bit.ly/2khDGSb>.

<sup>10</sup> Bianca E. Bersani & Alex R. Piquero, *Immigrants Don't Commit More Crimes. Why Does the Myth Persist?*, L.A. Times (Sept. 6, 2016 4:00 AM), <http://lat.ms/2bWK7Ye>; David Bier, *Donald Trump Is Wrong—Immigrants Don't Commit More Crimes*, Time (Sept. 27, 2016), <http://ti.me/2cBBOyp>.

of immigration officers in relation to the investigation, apprehension, or detention of aliens in the United States.” Such an agreement could require our State law enforcement officers to detain individuals unconstitutionally, perform “check your papers” searches during routine police activities and take part in immigration raids. Deputizing Illinois law enforcement personnel to perform as federal immigration officers would not only weaken critical community safety efforts and raise significant legal questions, but also undermine the values on which our country was built.

*Agreements to Deputize Illinois Law Enforcement as Federal Immigration Officers  
Would Divert Needed Resources and Detrimentially Impact Community Safety*

Directing Illinois law enforcement to perform the functions of immigration officers would deplete law enforcement resources sorely needed to address criminal activity. Police departments in Illinois do not have extra resources to take on federal immigration duties that will not make communities safer.<sup>11</sup> Illinois should focus our limited law enforcement resources on the challenges we are currently facing in protecting and serving our residents.

Just as importantly, these measures are destructive to communities. Asking the officers charged with protecting all residents to detain members of their communities for federal immigration purposes undermines the trust that is essential to public safety. As one recent study found, agreements that deputize local officers to perform immigration duties have serious effects on immigrants within communities, such as “avoiding public places by these populations, changes in driving behavior, fear and mistrust of the police and other authorities, and reduced crime reporting.”<sup>12</sup> The International Association of Chiefs of Police has observed a “chilling effect” on immigrants’ reporting of criminal activity when state and local law enforcement begin enforcing civil immigration laws: “Without assurances that they will not be subject to an immigration investigation and possible deportation, many immigrants with critical information would not come forward, even when heinous crimes are committed against them or their families.”<sup>13</sup>

*Such Agreements Raise Serious Legal Issues*

Beyond these problems, there would be significant constitutional concerns with actions that Illinois law enforcement personnel would take pursuant to a deputizing agreement. The Supreme Court has warned that “[d]etaining individuals solely to verify their immigration status would

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<sup>11</sup> In July 2015, Lake County Sheriff Mark Curran joined law enforcement leaders, including the Director of Cook County’s Department of Homeland Security and Emergency Management, in a letter urging Congress to reject proposals to impose federal immigration enforcement responsibilities on local law enforcement. The letter stated: “Immigration enforcement at the state and local levels diverts limited resources from public safety. State and local law enforcement agencies face tight budgets and should not be charged with the federal government’s role in enforcing federal immigration laws.” Letter from Law Enforcement Immigration Task force to Reps. Trey Gowdy & Zoe Lofgren, House Subcommittee on Immigration & Border Security (July 20, 2015), <http://bit.ly/2kKBrJy>.

<sup>12</sup> Randy Capps et al., *Delegation and Divergence: A Study of 287(g) State and Local Immigration Enforcement* at 38, Migration Policy Institute (Jan. 2011), <http://bit.ly/2jFmvbr>.

<sup>13</sup> *Enforcing Immigration Law: The Role of State, Tribal and Local Law Enforcement* at 5, Int’l Ass’n of Chiefs of Police (2004), <http://bit.ly/2ksLZxb>.

raise constitutional concerns.”<sup>14</sup> Specifically, complying with federal requests to detain immigrants raises serious Fourth Amendment issues. The Supreme Court has found that, once the initial justification for a seizure is resolved, detention may not be prolonged without additional justification.<sup>15</sup> Given that an immigration detainer is considered an arrest under the Fourth Amendment, prolonged detention absent probable cause may subject the detaining jurisdiction to civil liability.<sup>16</sup>

Further, as the Department of Justice has found, these agreements have led to patterns and practices of discriminatory and unconstitutional racial profiling in other states.<sup>17</sup> In Illinois, such practices would also violate state law. The Illinois Civil Rights Act of 2003, modeled after the federal Civil Rights Act of 1964, prohibits state and local officials from engaging in policies or practices that subject people to discrimination based on national origin.<sup>18</sup> Under that law, courts may determine whether “policies for deployment of police personnel” have a disparate impact on those of a specific national origin.<sup>19</sup> Yet that is precisely what federal immigration activities carried out by state officers would run the risk of doing – targeting individuals based on national origin. That conduct would be illegal in Illinois.

Not only does no Illinois law authorize our State’s law enforcement officers, who have duties prescribed under state law, to enforce federal immigration law, but any agreement to deputize state or local law enforcement personnel would stand in direct opposition to ordinances, policies and practices of cities and counties throughout the State that recognize the importance of immigrants and respect their human rights. For example, the cities of Chicago, Evanston, and Urbana and the counties of Cook and Champaign have all placed limits on local law enforcement participation in civil immigration enforcement, with Chicago, Evanston and Urbana specifically prohibiting city employees and agencies from inquiring about, or investigating, the citizenship or immigration status of any person unless required by court order.<sup>20</sup>

### **The Illinois Bureau of Refugee and Immigrant Services Should be Strengthened**

I also urge you to strengthen the work performed by the Bureau of Refugee and Immigrant Services within the Illinois Department of Human Services. This bureau assists immigrants and refugees who are settling in Illinois through training, health screening, citizenship classes, and

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<sup>14</sup> *Arizona v. United States*, 132 S. Ct. 2492, 2509 (2012).

<sup>15</sup> *Illinois v. Caballes*, 543 U.S. 405, 407–08 (2005).

<sup>16</sup> *Moreno v. Napolitano*, No. 11 C 5452, 2016 WL 5720465, at \*6 (N.D. Ill. Sept. 30, 2016).

<sup>17</sup> In North Carolina, for example, a Department of Justice investigation showed that unconstitutional discriminatory conduct under a federal-county immigration enforcement agreement came to “permeate[ ] the entire agency” through intentional and disproportionate targeting of Latinos. Letter from Thomas E. Perez, Assistant Attorney General, to Clyde B. Albright & Chuck Kitchen, Attorneys for Alamance County Sheriff’s Office at 2, 8 (Sept. 18, 2012), <http://bit.ly/2k61lqf>.

<sup>18</sup> 740 ILCS 23/5.

<sup>19</sup> *Cent. Austin Neighborhood Ass’n v. City of Chicago*, 2013 IL App (1st) 123041, ¶ 23.

<sup>20</sup> Chicago Municipal Code, ch. 2-173; Evanston, IL Ordinance 156-O-16 (adopted Dec. 12, 2016); Urbana, IL Resolution No. 2016-12-070R (adopted Dec. 19, 2016); Cook County Code of Ordinances § 46-37 (adopted Sept. 7, 2011); Letter from Champaign County Sheriff Dan Walsh to U.S. Immigration and Customs Enforcement (Mar. 8, 2012), <http://bit.ly/1fUeB5W>.

other services. From October 1, 2016 to January 31, 2017, Illinois welcomed 1,001 refugees. The 120-day ban on all refugee entry into the United States under Executive Order 13769 has created an atmosphere of fear among refugees and immigrants, making the Bureau's mission all the more important. To further strengthen communities, we must provide the help refugees need to successfully integrate into Illinois.

### **Protecting Illinois Residents from Hate Crimes**

Finally, a key part of keeping all of the people who live in Illinois safe is to affirm our strong commitment to anti-discrimination laws and bolster our efforts to fight hate crimes against all residents, including immigrants and refugees. Our hate crime statute offers both criminal and civil protections to those who have experienced hate-based harassment, injury, and property damage.<sup>21</sup> Nonetheless, our nation has experienced a chilling increase in hate crimes in the last year, and Illinois has not been immune from this epidemic. Dozens of hate-fueled incidents have occurred here since the election based on race, religion, national origin, gender identity, and sexual orientation.<sup>22</sup> The recent anti-immigrant measures have given rise to even more fear among our State's foreign-born residents. No one deserves to be threatened or injured because of who they are, where they are from, or what they believe.

My office remains committed to protecting the interests of all Illinoisans, regardless of national origin, religion or immigration status. I hope that you will join me in making this commitment to all of our residents, and I look forward to working with you to fulfill that promise.

Sincerely,



Lisa Madigan

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<sup>21</sup> 720 ILCS 5/12-7.1.

<sup>22</sup> Hatewatch Staff, *Update: 1,094 Bias-Related Incidents in the Month Following the Election*, Southern Poverty Law Center (Dec. 16, 2016), <http://bit.ly/2gWK4zQ> (noting at least 31 hate incidents in Illinois in first month after 2016 election).