

October 9, 2017

Mr. Greg Griffin
State Auditor
Department of Audits and Accounts
270 Washington Street, SW, Room 1-156
Atlanta, GA 30334-8400

Re: City of Decatur's continued compliance with O.C.G.A. §§ 36-80-23 and
50-36-4

Dear Mr. Griffin:

I serve as the City Attorney for the City of Decatur. I am writing to address a letter sent to you by Lt. Governor Casey Cagle, which is dated October 6, 2017.

In that letter, Lt. Governor Cagle states his opinion that "based on recent information, the City of Decatur appears to be in direct violation of Georgia law which specifically prohibits sanctuary cities, O.C.G.A. § 36-80-23." It appears that this legal conclusion is based on a faulty premise: that the City of Decatur has adopted a policy that prohibits or restricts Decatur officials and employees from communicating or cooperating with federal officials regarding immigration status information. This is not the case.

A review of the actual facts makes clear that the City of Decatur continues to comply fully with O.C.G.A. § 36-80-23. On September 29, 2017, the City of Decatur Police Department amended its General Order Manual to memorialize in written form what has been the Police Department's practice for at least the past eleven years that Chief Mike Booker has been in office. This policy, a copy of which is enclosed for your review, addresses **arrest, detention and custody** of individuals pursuant to judicially issued warrants, consistent with the 4th Amendment to the United States Constitution. The policy does not address -- much less prohibit or restrict -- communications or cooperation with federal officials or law enforcement officers with regard to **reporting** immigration status information. Therefore, the policy does not constitute a "sanctuary policy," as defined by O.C.G.A. § 36-80-23 and there has been no violation of that statute.

The Lt. Governor's letter also requests that your department "verify if the City of Decatur is in violation of their annual immigration compliance reporting obligation." Actually, your department's records should indicate that the City of Decatur has met fully its most recent annual immigration compliance reporting obligation with its December 16, 2016 submission. We believe your department's records will also indicate that the

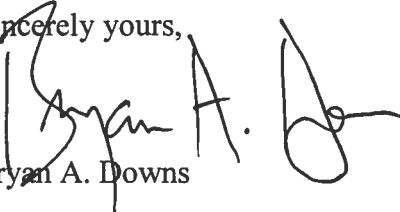
Mr. Greg Griffin
State Auditor
Department of Audits and Accounts
October 9, 2017
2 | Page

City of Decatur has complied with this reporting obligation in a timely fashion every year.

If you have any questions or require further information, please let me know. Please be assured that the City of Decatur, through its City Commission, its City staff and its Police Department, has every intent to continue adhering to the laws of the United States and the State of Georgia and to continue serving as a model Georgia local government.

With best regards.

Sincerely yours,



Bryan A. Downs

Enclosures

cc: Governor Nathan Deal
Lt. Governor Casey Cagle
Speaker David Ralston
Mayor Patti Garrett
City Manager Peggy Merriss
Police Chief Mike Booker

General Order Manual

Decatur Police Department

Chapter 7 - FORCE, DETENTION AND ARREST

Section 03-d - Immigration Status

The Decatur Police Department shall not hold or extend the detention of any person at the request of U.S. Immigration and Customs Enforcement (ICE) unless the agency first presents the Decatur Police Department with a judicially issued warrant authorizing such detention.

In particular, the Decatur Police Department shall not arrest, hold, extend the detention of, transfer custody of, or transport anyone solely on the basis of an immigration detainer or an administrative immigration warrant, including an administrative immigration warrant in the National Crime Information Center (NCIC) database.

Any person arrested by the Decatur Police Department and charged with a crime that occurred in the City of Decatur shall be transported to the DeKalb County Jail. An officer who arrests a person on another agency's warrant must verify the validity of the warrant. Once the validity of the warrant has been confirmed, the person shall be transported to the DeKalb County Jail. This procedure pertains to all persons that are arrested on a valid warrant from any local, State or Federal law enforcement agency.

Since the Decatur Police Department does not have a facility to house an arrested person, the Decatur Police Department will not hold a person for additional time beyond when the criminal matter allows release solely to notify ICE of the person's release or to facilitate the transfer of the person to ICE.

The Decatur Police Department does not make the assumption that a detainer or request for notification from ICE is an indication that a person is unlawfully present. That is for other law enforcement agencies and the court system to determine.

The Decatur Police Department shall not treat a detainer or request for notification as an indication that an individual is unlawfully present.

Since the Decatur Police Department does not have a facility to house an arrested person, it will be the responsibility of the DeKalb County Jail to assure that ICE notifies the person's attorney and provides a reasonable opportunity for the person's attorney to be present during an interview.

Any officer determined to have violated this General Order is subject to disciplinary action.