

Frequently Asked Questions Regarding Oberlin's Proposed "Sanctuary" Resolution and the Enforcement of Federal Immigration Law

Does this Resolution put the City of Oberlin outside the law?

As far as we understand, Oberlin's solicitor would not pass on to City Council any resolution that would put the city in a position of violating a law; he is a better judge of this than we are.

What about Section 642 of the "Illegal Immigration Reform and Immigration Responsibility Act"

Sec. 642 of the "Illegal Immigration Reform and Immigration Responsibility Act" of 1996 states (in summary form) that no government entity or official can prohibit or restrict the sending to, or receiving from, the Immigration and Naturalization Service of information regarding the citizenship or immigration status of any individual.

Two points should be made about this statute and the Resolution under consideration at the present time:

a. The resolution before Oberlin City Council stipulates that the city shall not request information about the immigration status of individuals in a variety of circumstances *unless otherwise required by federal or state statute, regulation or court decision...* [emphasis added]. We believe that this is compliant with all federal and state statutes.

b. Despite Sec. 642 of the 1996 Immigration Act, as of November 2008, more than 70 states, counties, and cities in the United States that had passed legislation similar to that currently before the city of Oberlin. These ranged from very large cities (Phoenix, Los Angeles, San Francisco, Baltimore, Detroit, Minneapolis, New York, etc.) to much smaller cities and towns. They also include three entire states: Alaska, Montana, and New Mexico. (A list of these government entities, compiled by the National Immigration Law Center, can be found at the end of this document.) The legal counsels of all these municipalities, counties and states have found that their actions in passing resolutions similar to that being considered by Oberlin would not place them in a condition of breaking the law.

What else does the Resolution do?

Section 2 stipulates that Oberlin will not participate in the "Delegation of Immigration Authority" provided through Section 287(g) of the Immigration and Nationality Act of 1996. This is a purely voluntary measure which "authorizes the secretary of the U.S. Department of Homeland Security (DHS) to enter into agreements with state and local law enforcement agencies, permitting designated officers to perform immigration law

enforcement functions, pursuant to a Memorandum of Understanding (MOU), provided that the local law enforcement officers receive appropriate training and function under the supervision of sworn U.S. Immigration and Customs Enforcement (ICE) officers.” It is the intention of the drafters of this resolution that the City of Oberlin not avail itself of this voluntary measure.

Why is this Resolution necessary, particularly if the assistance of the city and its officials can be “required by federal or state statute, regulation or court decision”?

There are two broad answers to that question, and we see these as central to the discussion:

a. Police chiefs around the United States have repeatedly argued that immigration is a national issue which should be acted upon by the federal government and that “any initiative to involve local police agencies in the enforcement of immigration laws should be completely voluntary.” This is the position taken by the Major Cities Chiefs of Police Statement in June 2006, and supported by 57 Chief Executive Officers of police departments located within a metropolitan area of more than 1.5 million people. The primary concern of the police chiefs, a concern shared by scores of police departments in smaller cities and towns, is that they cannot adequately protect public safety if some members of their communities are worried about interacting with the police because of concerns about their immigration status. Imagine someone walking down Main Street who sees a robbery in progress in Subway but is afraid to contact the police for fear that she will be asked her immigration status when the police take her statement. Imagine a resident who knows of drug sales in the high school but doesn’t report this to the police for the same reason. It is not hard, then, to understand why public safety officials largely oppose being put in a position of policing the immigration status of the residents they are charged with protecting.

b. Oberlin has a long history of embracing diversity, respecting the civil and human rights of its residents, and valuing the inclusive nature of its community. We are a town whose very history is built on a belief that all *people* are equal, not that all “citizens” are equal. To allow city officials or those acting in the name of the city, except when specifically required by the law, to carry out the tasks of Immigration and Customs Enforcements officers not only places our city officials in the position of questioning the intentions of anyone within the town not known by the officials, but specifically targets for questioning or suspicion those who look “different.” Proactive policing of immigration status can only be done through racial profiling, something which Oberlin has long considered to be abhorrent. Hispanics and those of Middle Eastern or South Asian ancestry would face the most immediate scrutiny, an act that, again, is contrary to the heritage of Oberlin.

What about the arguments brought up by those who claim that undocumented migrants are a drain on social services, that they don't pay taxes, that they are inclined to criminal actions, etc.?

There is an abundance of documentation about these issues that we can make available to City Council members and residents. We would stress that these issues are part of a very broad debate about the nature of immigration to the United States, a debate that has been an ongoing part of American history for at least 100 years; but these are not debates that are in the slightest relevant to the resolution before City Council.

Why are these issues not just irrelevant to our discussion but an indication of the problems inherent in having the police actively cooperate with ICE officials? Let's take the example of the assertion that undocumented migrants are "inclined" to criminal activity. Anti-immigrant publicity makes much of the "data" that there were 525 undocumented migrants charged with sexual crimes between 1999 and 2006 (this out of a supposed population of 12 million undocumented migrants in the country). Does this mean that, because *some* undocumented migrants have committed sexual crimes, an irregular residency status is an indication of some sexual perversion that should be brought to the attention of city police around the country? This is a clear example of the worst kind of racial stereotyping, where individuals are seen to be more prone to crime because of their race or ethnicity.

Equally, the question of the impact of undocumented migrants on the U.S. economy as a whole is an issue worthy of much study – but it does not help us decide the Resolution that is currently before the City Council.

What about the arguments of those who are concerned that undocumented workers have an adverse impact on local wages?

This, too, is an issue worthy of study and discussion, but not one that relates to the resolution at hand. Many studies have suggested that if undocumented migrants compete at all with a U.S.-born labor force, they do so at the lowest end of wage scale, among the bottom 10% of wage earners. This, to be sure, is an issue of concern, but those who study the problem consistently note that increasing the pressure on undocumented workers through immigration raids and placing all foreigners under a heightened state of suspicion will not remove the estimated 12 million undocumented migrants from the United States, but it will likely drive many of them further underground where they will have even less access to basic human rights, where they will be even more liable to exploitation, where the pressures on their wages will be even greater, and where that pressure will spill over to the general working population. All workers should receive a living wage, whether citizens, legal residents, or undocumented.

Does this resolution make Oberlin a “sanctuary city” and what is a “sanctuary city”?

This resolution does not state in any of its stipulations that Oberlin would become a “sanctuary” city. That said, it should be noted that there is no single definition of what that phrase means. To a large extent, the shorthand term, “sanctuary city,” is most often used to refer to those cities which take a “don’t ask, don’t tell” stance towards the immigration status of its residents.

Does it weaken national security to have cities that do not cooperate with immigration officials, as anti-immigration groups charge?

At the present time, the four largest cities in the United States have “don’t ask, don’t tell” provisions regarding the immigration status of their residents. This is also the case for the majority of the 25 biggest cities, as it is in *every one* of the six urban areas the Department of Homeland Security considers to be at greatest risk of terrorist attacks: New York, Washington, Los Angeles, San Francisco, Chicago, and Houston. One has to ask why these cities, including the two which were the primary targets of attackers on September 11, 2001, would be interested in weakening their own security by adopting such non-cooperation provisions. In fact, for reasons listed above, police and public safety officials in these cities have felt that they could *best* protect the safety of their residents by passing resolutions similar to the one before City Council.

Appendix: Laws, Resolutions, and Policies Instituted Across the United States Limiting Enforcement of Immigration Laws by State and Local Authorities; as of December 2008. The full list can be found at: <http://www.nilc.org/immlawpolicy/LocalLaw/locallaw-limiting-tbl-2008-12-03.pdf>

Alaska

Alaska State
Anchorage
Sitka
Haines Borough

Arizona

Chandler

California

Berkeley
East Palo Alto
Fresno
Garden Grove
Los Angeles
Oakland
Richmond
San Diego

San Francisco
San Jose
San Rafael
Santa Cruz
Sonoma County
Watsonville

Colorado

Durango

Connecticut

New Haven

Hartford

District of Columbia

District of Columbia

Illinois

Chicago

Cicero

Cook County

Maine

Portland

Maryland

Baltimore

Prince George's County

Takoma Park

Massachusetts

Boston

Brewster

Brookline

Cambridge

Lexington

Orleans

Michigan

Ann Arbor

Detroit

Hamtramck

Lansing

Minnesota

Minneapolis

St. Paul

Missouri

St. Louis

Montana

State of Montana

City of Helena

Butte-Silver Bow County

Nevada

Silver City

Elko

New Jersey

Highstown Borough

Montclair Township

Newark

Trenton

New Mexico

State of New Mexico

City of Albuquerque

Rio Arriba

Santa Fe

New York

New York City

Syracuse

North Carolina

Durham

Oregon

Oregon State

Ashland

Gaston

Marion County

Portland

Salem

Talent

Pennsylvania

Philadelphia

Pittsburgh

Texas

Austin
Houston

Washington

Seattle

Wisconsin

Dane County
Madison
Milwaukee