

City of Philadelphia



Council of the City of Philadelphia Office of the Chief Clerk Room 402, City Hall Philadelphia

(Resolution No. 020394)

RESOLUTION

Calling on Mayor Street and Police Commissioner Johnson to oppose a new federal policy which would provide state and local law enforcement agencies with the legal authority to arrest and detain persons for violations of federal immigration laws and calling on Mayor Street to issue an Executive Order prohibiting all City departments and agencies, including the Philadelphia Police Department, from requesting information about or otherwise investigating or assisting in the investigation of the citizenship or residency status of any person unless such inquiry or investigation is required by statute, ordinance, federal regulation or court decision.

WHEREAS, In April 2002, the media reported that the Department of Justice was considering issuing a formal legal opinion which would, for the first time, provide state and local law enforcement agencies with the legal authority to arrest and detain persons for civil violations of federal immigration laws. Such a policy would mark a complete reversal from the long-standing federal policy in which immigration laws and criminal laws are enforced separately; and

WHEREAS, As recently as 1996, the Justice Department's Office of Legal Counsel concluded that "state and local police lack recognized legal authority to stop and detain an alien solely on suspicion of civil deportability, as opposed to criminal violation of the immigration laws or other laws." An earlier Justice Department legal opinion from 1989 reached similar conclusions; and

WHEREAS, This new policy is incompatible with the community-based policing model currently utilized by the Philadelphia Police Department, whereby the police and community work together to solve problems after establishing a culture of trust. In immigrant communities, building those trust relationships that are the foundations of successful policing is especially difficult. Owing to the negative experiences many immigrants had with the local police in their home countries and the fears of deportation that undocumented and even legal immigrants harbor, successful efforts to gain the trust of immigrant communities often involve explicit statements from the local authorities that the police will not report immigrants to the INS. Authorizing local police to commence deportation proceedings against undocumented immigrants will erode the rapport between immigrant communities and the police and will, as a result, make us less safe; and

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WHEREAS, Immigration enforcement by local police will not make Philadelphia safer from terrorism. The chances of actually apprehending a potential terrorist simply by arresting persons suspected of immigration violations is very small. Most of the September 11th terrorists did keep their immigration status current. Had local police been able to stop and detain foreigners for immigration law violations, 16 of the 19 hijackers, having the proper papers, would have been free to continue their plot. The cost of the policy, instead, will be to dry up a very valuable source of tips about suspicious behavior that might actually lead to the arrest of a terrorist. If immigrants feel that by cooperating with the police they put themselves or their family members in jeopardy, they will more likely keep silent, even if they know something that might be valuable to the police; and

WHEREAS, New federal immigration agents receive an intensive and specialized 17-week residential basic training course and then complete additional on-the-job training throughout their tenure with the INS in order to properly enforce the extremely complex web of immigration laws and regulations in a constitutionally lawful manner. The Justice Department's misguided proposal does not provide for any additional resources for local police departments to train their personnel and the Philadelphia Police Department's budget lacks funding necessary to provide the comprehensive training necessary for its officers to constitutionally and effectively enforce the federal immigration laws; and

WHEREAS, Assuming jurisdiction over enforcement of federal immigration laws will distract and prevent police from performing their critical primary mission of law enforcement and crime prevention, and instead lead to a tremendous increase in real and perceived racial and ethnic profiling and harassment, thereby compromising public safety; and

WHEREAS, Police departments across the country are already speaking out against this dangerous Justice Department proposal:

- In **San Antonio, Texas**, Police Chief Albert Ortize said "We've tried so very hard for years to build bridges to all segments of our community. This would be a setback in that regard."
- The **California Police Chiefs Association**, in a letter to the Attorney General on April 10th, 2002, said that "it is the strong opinion of the California Police Chiefs Association leadership that in order for local and state law enforcement organizations to continue to be effective partners with their communities, it is imperative that they not be placed in the role of detaining and arresting individuals based solely on a change in their immigration."
- **Denver** Police Chief Gerry Whitman noted that "if a victim thinks they're going to be a suspect (in an immigration violation), they're not going to call us, and that's just going to separate us even further."

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- A spokesman for the **Chicago** Police Department, speaking of the job of preventing and solving crimes, said that, “[i]t would be virtually impossible to do that effectively if witnesses and victims, no matter what their residency status, had some reluctance to come forward for fear of being deported.”
- A spokesman for the **Miami** Police Department bluntly stated his department’s reaction: “We will not function in an INS capacity. It’s not our job. Our job is to solve crimes.”

WHEREAS, Those jurisdictions which have experimented with local police enforcement of federal immigration laws have found the results disastrous. In Chandler, Arizona, for example, a joint INS/police sweep through the city’s Latino neighborhoods in 1997 resulted in individuals being repeatedly stopped for questioning, and sometimes verbally or even physically abused. An investigation concluded that police stopped and interrogated individuals based on their skin color or use of Spanish, and even forced their way into homes without a warrant. The operation cost the city the trust of its Hispanic residents, as well as \$400,000 in the settlement of civil rights lawsuits brought by victims of the operation. During the mid 1980’s, local police departments in a number of California cities agreed to assist border patrol agents in immigration raids. In the end, the departments wound up defendants in a series of civil rights lawsuits filed by U.S. Hispanic citizens who charged harassment. Several cities passed resolutions prohibiting police from cooperating with federal officials in any future sweeps; and

WHEREAS, The Mayors of the three largest cities in this nation have issued Executive Orders prohibiting their law enforcement officers from any enforcement of federal immigration laws. On November 27, 1979, then Los Angeles Mayor Richard Riordan and Chief of Police Daryl Gates issued Special Order No. 40, which adopted the following policy:

The Department is sensitive to the principle that effective law enforcement depends on a high degree of cooperation between the Department and the public it serves. The Department also recognizes that the Constitution of the United States guarantees equal protection to all persons within its jurisdiction. In view of those principles, it is the policy of the Los Angeles Police Department that undocumented alien status in itself is not a matter for police action. It is, therefore, incumbent upon all employees of this Department to make a personal commitment to equal enforcement of the law and service to the public, regardless of alien status.

On April 27, 1989, Chicago Mayor Richard M. Daley issued Executive Order 89-6 “in order to assure that all residents of the City of Chicago, regardless of nationality or citizenship, shall have fair and equal access to municipal benefits, opportunities and services.” Executive

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Order 89-6 prohibits any agent or agency of the City of Chicago from requesting information about or otherwise investigating or assisting in the investigation of the citizenship or residency status of any person unless such inquiry or investigation is required by statute, ordinance, federal regulation or court decision and prohibits any agent or agency from disseminating information regarding the citizenship or residency status of any person unless required to do so by legal process.

New York City Mayor Ed Koch issued Executive Order No. 124 on August 7, 1989, which was then subsequently reaffirmed by Mayors Dinkins and Guiliani. New York Executive Order No. 124 prohibits any City officer or employee from “transmit[ting] information respecting any alien to federal immigration authorities unless [such disclosure] is required by law” or the alien has provided written authorization for such disclosure or the “alien is suspected...of engaging in criminal activity.” In addition, Executive Order 124 specifically prohibits the Police Department and the Department of Correction from ‘transit[ing] to federal authorities information respecting any alien who is the victim of a crime’; now therefore

RESOLVED, THAT THE COUNCIL OF THE CITY OF PHILADELPHIA, Vigorously opposes a new federal policy which would provide state and local law enforcement agencies with the legal authority to arrest and detain persons for violations of federal immigration laws; and

RESOLVED FURTHER, THAT THE COUNCIL OF THE CITY OF PHILADELPHIA, Calls upon Mayor Street and Police Commissioner Johnson to take a public stand in the interests of the public safety and welfare of the people of Philadelphia and speak out against this dangerous Justice Department scheme; and

FURTHER RESOLVED, THAT THE COUNCIL OF THE CITY OF PHILADELPHIA, Calls upon Mayor Street to adopt an Executive Order prohibiting all City departments and agencies, including the Philadelphia Police Department, from requesting information about or otherwise investigating or assisting in the investigation of the citizenship or residency status of any person unless such inquiry or investigation is required by statute, ordinance, federal regulation or court decision.

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CERTIFICATION: This is a true and correct copy of the original Resolution, Adopted by the Council of the City of Philadelphia on the thirtieth of May, 2002.

Anna C. Verna
PRESIDENT OF THE COUNCIL

Marie B. Hauser
CHIEF CLERK OF THE COUNCIL

Introduced by: Councilmember Ortiz

Sponsored by: Councilmembers Ortiz, Tasco, DiCicco, Goode, Council President Verna, Reynolds Brown, Kenney, Nutter, Cohen and Miller