

July 9, 2007

Via Facsimile (703-792-7484) and U.S. Mail

Prince William County Board of Supervisors
Board Chamber, One County Complex Court
Prince William, Virginia 22192

Dear Board Members:

I am writing to urge you not to pass the resolution pertaining to illegal immigration set for vote on July 10. The bill poses several legal and policy problems that will have a severe impact on the civil liberties of Prince William County residents.

1. Denial of Services to Undocumented Immigrants

According to the *Washington Post*, County Supervisor John Stirrup said that “the resolution’s goal is to deny services to illegal immigrants – including most forms of medical care and public education.” The Post quoted Mr. Stirrup saying, “If they’re here illegally, we have no responsibility to educate them.” Similarly, The *Examiner* quoted Chairman Corey Stewart saying “We’re going to vote . . . to make sure that anybody who’s receiving services administered by the county is a legal citizen or resident of the United States.”

Contrary to Mr. Stirrup’s comments, the Supreme Court has made clear that the Constitution prohibits the government from denying public education to children based on their immigration status. *Plyler v. Doe*, 457 U.S. 202 (1982). Moreover, federal law prohibits discrimination based on immigration status for certain medical services – including immunizations, emergency care, and pre-natal care.

While it is not clear that the resolution actually requires the denial of services to undocumented immigrants, it does appear that at least some members of the Board of Supervisors construe it to do so. Any attempt by the County to deny such services would be unlawful and would be an invitation to litigation.

Moreover, a policy of denying all services to undocumented immigrants will lead to discrimination based on race and national origin. Those who are members of immigrant communities or speak with accents will inevitably be the ones forced to prove their status—and will be the ones who are erroneously denied housing, employment, and goods and services because county officials mistakenly identify them as “illegal.”

2. Inquiry into Immigration Status

The resolution’s requirement that county police officers “inquire into the citizenship or immigration status of any person detained for a violation of state law or municipal ordinance” will create a host of difficulties.

It is not clear how police officers are to make this “inquiry.” The question of whether a person is legally present in the country is an extremely difficult one dealing with one of the most complex areas of federal law. Local law enforcement officers are not well equipped to make this determination.

As a practical matter, to make such an inquiry as to every single arrestee will be impossibly time consuming. Notwithstanding the resolution’s language about questioning every person regardless of “national origin, ethnicity, or race,” a haphazard application of the ordinance cannot be avoided, and unconstitutional targeting of individuals based on race and national origin is inevitable.

Moreover, the more that local law enforcement involves itself in immigration matters, the more fear it can expect from local immigrant communities. Individuals who fear possible immigration consequences are unlikely to cooperate with police when they are witnesses or have important information about crimes.

3. Private Cause of Action Against the County

The resolution also provides for a private cause of action for county residents “to file for a writ of mandamus to compel any non-cooperating agency to comply” with the ordinance. Pursuant to the “Dillon rule,” it is questionable whether the County can create such a cause of action in the absence of express authority from the Commonwealth.

For all of these reasons, we urge the board not to pass this ill-conceived resolution.

Sincerely,

Kent Willis
Executive Director

Rebecca K. Glenberg
Legal Director