

January 24, 2020

MEMORANDUM

**DOCUMENTS REVEAL MANY VIRGINIA LAWLESS COUNTIES ADMIT THEIR
“SECOND AMENDMENT SANCTUARIES” ARE LEGALLY MEANINGLESS; THEY ARE
ALSO ROOTED IN DISCREDITED LEGAL THEORIES**

The last few months in Virginia have seen many local governments pass resolutions declaring themselves “Second Amendment Sanctuaries.” A close reading of the text of dozens of these resolutions shows they generally have no actual legal effect—and typically are little more than symbolic political gestures. But by confusing Virginians who reside in these counties about their obligations to follow state law (and, conversely, the obligations of local law enforcement officers to enforce state law and protect the safety of all Virginians), these resolutions threaten public safety. Advocates of these resolutions also invoke fringe legal theories that were relied upon by segregationists and defenders of slavery, including heavy reliance on one theory -- “interposition” -- that the courts have emphatically rejected as “[illegal defiance of constitutional authority](#).” Far from providing any legal sanctuary, these resolutions are better described as “Lawless County Resolutions.”

I. Background

So-called “Second Amendment Sanctuary” resolutions typically declare that the county board of supervisors or sheriff intends to refuse their legal constitutional responsibility to enforce democratically enacted gun violence prevention laws passed by their state legislatures, on the theory that the counties or sheriffs can decide for themselves whether such laws violate the constitution. While the text and emphasis of such resolutions vary between localities that have adopted them, such resolutions have received extensive media attention in wake of the 2019 Virginia state election results where voters democratically elected a Gun Sense Majority that promised to reform Virginia’s historically weak gun laws. Everytown for Gun Safety Support Fund issued Freedom of Information Act (“FOIA”) requests to select counties and cities in Virginia to learn more about the passage of these resolutions. Everytown also has reviewed the “[analysis](#)” supporting these resolutions recently put forward by the two gun lobby organizations that have been behind the efforts to pass these resolutions throughout Virginia, Gun Owners of America (“GOA”) and the Virginia Citizen Defense League (“VCDL”).

II. Many Local Officials Acknowledge Resolutions are Legally Meaningless

Proponents of these resolutions [have argued](#) that “Second Amendment Resolutions Have Significant Legal Effect.” However, email traffic discovered in the course of Everytown’s FOIA reveals something else: *local employees and their lawyers have privately acknowledged that resolutions adopted or considered in their jurisdictions are legally meaningless and have no effect.*

For example, the County Administrator of Buckingham County, a jurisdiction in Virginia that passed such a resolution, wrote in an email: **“you all can adopt a resolution to become a sanctuary county but that does not mean you can legally be one.”** Likewise, a member of the Hanover County (Virginia) Board of Supervisors who voted for the resolution that passed in their county, candidly emailed a constituent that **“I cannot emphasize enough that the Board of Supervisors does not now, nor will it in the future have any responsibility for enforcing (or not enforcing) gun laws.”** The email is excerpted below.

On Friday, I received confirmation that a resolution will be considered at the Hanover Board of Supervisors meeting on Wednesday, Dec. 11th beginning at 3 pm. The resolution - in it's current form - affirms our support both the US Constitution and the Commonwealth of Virginia Constitution while not offering false assurances. I cannot emphasize enough that the Board of Supervisors does not now, nor will it in the future have any responsibility for enforcing (or not enforcing) gun laws.

A county attorney for Fauquier County, Virginia, in an email excerpted below, advised the Board of Supervisors that **“the consensus is that an explicit declaration of being a ‘Second Amendment Sanctuary’ is problematic because it (1) has no real legal enforceable meaning....”** She also counseled that the resolutions set up an expectation for residents that the County will challenge such laws in Court, but that she had a **“hard time conceiving of a likely case where the County would have standing to try to invalidate any new state or federal law in this area....”** The Fauquier County Board of Supervisors nonetheless passed a [resolution](#) standing as “a Constitutional County with the overwhelming number of Constitutional and Sanctuary Counties throughout the Commonwealth....”

At Chairman Butler's request, attached is a suggested draft resolution for BOS review and consideration. If the BOS desires to put this on the December agenda, consideration might need to be given to a larger location for the meeting. Please note that as a traditional form of Virginia government with the separately elected Constitutional Office of Sheriff, the BOS does not have the power to direct law enforcement activities. Therefore, I've left that out of this draft. This version has been reviewed by both Kevin and Paul; the consensus is that an explicit declaration of being a “Second Amendment Sanctuary” is problematic because it (1) has no real legal enforceable meaning but (2) sets up an expectation by those that oppose all new gun laws (some of which argue any new gun law or regulation would be unconstitutional) that the BOS will litigate over any new state or federal gun legislation (resulting in the potential for constant requests from citizens for litigation/enforcement in cases where the BOS likely has no legal standing to be a plaintiff). If three or more Supervisors adamantly want such a statement, however, this is my suggestion:

Note, although probably not completely impossible, I am having a hard time conceiving of a likely case where the County would have standing to try to invalidate any new state or federal law in this area where a citizen alleges their Constitutional rights have been infringed upon.

When this legal analysis from Fauquier County was forwarded to Virginia State Senator Jill Vogel, an elected leader who has held an A+ rating from the NRA since 2011, Senator Vogel responded positively to the draft resolution (which did not contain the word “sanctuary”) saying it **“doesn’t sound sanctuary hysterical.”** In 2017, Senator Vogel received a \$5,000 donation from VCDL’s PAC.

I think perfect tone and well done. Doesn't sound sanctuary hysterical.

Jill H. Vogel
 Managing Partner
 Holtzman Vogel Josefiak Torchinsky PLLC

Virginia Citizens Defense League PAC

Vogel, Jill 45 North Hill Dr Suite 100 Warrenton, VA 20186	donation	Jerry Coffey	10/11/2017	\$5,000.00
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And we discovered more. A local government attorney writing to a listserv of Virginia local government attorneys was even more blunt about the import of these resolutions, saying **“[b]ottom line, I see such resolution as a political document sought by people for political purposes, and many elected officials will want to make a political statement of some sort.”** This attorney went on to reference hearing “one official” comparing a so-called Second Amendment Sanctuary Resolution to little more than declaring **“heart healthy month.”** And in Tazewell County, the County Administrator wrote to the Board of Supervisors (that ultimately passed a so-called sanctuary resolution) that **“basically a naked sanctuary statement from the Board is unconstitutional and worthless. In fact it probably violates all of our oaths of office.”** He instead argued for a resolution focusing on the raising of a county militia.

Basically a naked sanctuary statement from the Board is unconstitutional and worthless. In fact it probably violates all of our oaths of office. However, a militia resolution simply exercises a local power set forth in the state and federal constitutions.

I guess the question is do you want to just express an opinion or actually do something?

Thus, while gun extremists have trumpeted the so-called sanctuary county resolutions, behind the scenes the very people involved in their consideration and adoption understood them as purely symbolic. Of course, towns, cities and counties may pass resolutions calling on state legislators to vote in favor of or oppose gun safety bills, but that does not alter the plainly evident fact that counties have no legal right or ability to defy duly enacted state laws.

III. Resolutions Dangerously Sow Confusion Among Law Enforcement and Gun Owners

While these resolutions are recognized by many to be legally meaningless, they are also dangerous and aim to sow confusion—as county officials have also recognized in internal emails. In one exchange produced via Everytown’s FOIA request, a law enforcement advisor for the Virginia Beach Sheriff’s Office said that VCDL, which has been leading efforts to pass these resolutions, **“may be seeking a refusal to enforce state criminal laws to which they object on Second Amendment grounds. If enacted, such an ordinance would create a crisis for local police departments—an oath to enforce the laws of the Commonwealth in direct conflict with an ordinance by their governing body directing them not to enforce some of those laws.”**

A word of caution. From my past colorful experiences with Philip Van Cleave and the Virginia Citizens Defense League – the forces behind this sanctuary movement – they're probably seeking something more than a mere symbolic gesture.

They may be seeking a refusal to enforce state criminal laws to which they object on Second Amendment grounds. If enacted, such an ordinance would create a crisis for local police departments – an oath to enforce laws of the Commonwealth in direct conflict with an ordinance by their governing body directing them not to enforce some of those laws. That's more than a symbolic gesture.

In short, I think you're doing exactly the right thing by seeking legal precedent on this issue. You're honoring the Boy Scout motto - - never a bad idea.

Indeed, VCDL’s [model sanctuary resolution](#) seems to intentionally set up this very conflict, saying the county will use “the power to direct law enforcement and employees of [the County] to not enforce any unconstitutional law.”

The confusion also extends to citizens. After passage of such a resolution in Tazewell County Virginia, the County Administrator wrote in an email uncovered by Everytown that **“we are getting calls from people who believe this resolution has swept away ALL gun laws in the County,”** even a couple that **“called because they were denied licenses to sell guns and now want to sell them.”** The same County Administrator wrote in a subsequent email, when questioned if there was really need for clarification, that “maybe” the inquiries are from **“felons, persons with mental disabilities, and wife beaters who are asking.”** He also wrote **“I am worried people are going to get arrested for selling guns without a license.”** It appears his concerns about the confusion such resolutions can cause were well-founded: Everytown’s FOIA to Tazewell County also turned up correspondence from a local pawn shop asking the County whether the county resolution changed its legal obligations as it pertained to firearms. These emails underscore the danger and confusion caused by Lawless County Resolutions.¹

¹ The confusion in Tazewell County is perhaps not surprising as that County’s resolution (available [here](#)) goes well beyond most others that we’ve seen in Virginia (and elsewhere), purporting to prohibit any department or employee of the County from “participat[ing] in any way in the enforcement of any” number of new firearms laws that may be enacted, and further purporting to declare such laws “null, void, and of no effect in Tazewell County.” Such a formulation is a particularly dangerous, confusing and lawless assertion of non-existent county authority to nullify state law.

We are getting calls from people who believe this resolution has swept away ALL gun laws in the County. A couple have called because they were denied licenses to sell guns and now want to sell them. So we are sending out a second press release that walks the earlier one back by saying we will continue to fund the enforcement of current gun laws, unless repealed or otherwise declared unconstitutional by the courts.

Maybe they are felons, persons with mental disabilities, and wife beaters who are asking.

IV. Resolutions Are Rooted in Fringe and Discredited Legal Theories

The same Virginia Beach legal advisor quoted above wrote in another email uncovered by Everytown’s FOIA request that the closest historical parallel to this “Second Amendment Sanctuary” movement was “**nullification.**” Nullification is the rejected legal theory that some states invoked in the lead-up to the Civil War and later in attempting to prevent integration of schools and other measures aimed at dismantling the legacy of slavery and segregation.²

The GOA/VCDL memorandum also refers to the doctrine of “interposition” as justification for ignoring the rule of law. To be clear: like nullification, interposition is a doctrine with a dark history of being perverted to defend slavery, segregation, and the worst laws and practices of the Jim Crow era. The theory of interposition was invoked by John Calhoun to justify his disregard of the supremacy of federal law,³ and by state legislatures passing resolutions to block implementation of federal court orders to desegregate public schools.⁴ This doctrine has been squarely rejected by the U.S. Supreme Court, which adopted language from a federal district court nearly sixty years ago in stating that state interposition is “not a constitutional doctrine,” but rather “illegal defiance of constitutional authority.”⁵

² See *Cooper v. Aaron*, 358 U.S. 1 (1958) (rejecting the legal theory of nullification advanced by Arkansas to ignore the Supreme Court’s opinion in *Brown v. Board of Education*).

³ See generally, John Calhoun, “The Fort Hill Address: On the Relations of the States and Federal Government” (July 26, 1831) (“This right of interposition, thus solemnly asserted by the State of Virginia, be it called what it may—State-right, veto, nullification, or by any other name—I conceive to be the fundamental principle of our system.”).

⁴ See, e.g., The Library of Virginia, “The State Responds: Massive Resistance,” available at: <https://www.lva.virginia.gov/exhibits/brown/resistance.htm> (“Opponents of the Brown ruling and integration used the doctrine of interposition, which argued that the state could ‘interpose’ between an unconstitutional federal mandate and local authorities based on State Sovereignty. The General Assembly adopted a resolution of interposition in 1956 that clearly defied the authority of the federal courts. James Jackson Kilpatrick, editor of the *Richmond News Leader*, vigorously criticized the court decisions to end segregation and was one of the leading public advocates of interposition.”).

⁵ *United States v. Louisiana*, 364 U.S. 500, 501 (1960) (quoting *Bush v. Orleans Parish Sch. Bd.*, 188 F. Supp. 916, 926 (E.D. La. 1960)); see also *Cooper v. Aaron*, 358 U.S. 1 (1958).

VCDL and GOA further attempt to bolster their arguments by citing to “the doctrine of the lesser magistrate.” That doctrine—which is a variation on the doctrines of nullification and interposition—has its roots in early Calvinism and Lutheranism. It has not been a part of mainstream theology (let alone political theory) for centuries.⁶ Which is, perhaps, why it has also not been cited by a single published decision in any American court (federal or state).

V. Resolutions Misrepresent the Role of Local Government and Sheriffs

These lawless resolutions also fundamentally misunderstand and misrepresent the role of local government bodies, sheriffs, and courts in enforcing laws and determining if laws are constitutional. For example, Everytown’s FOIA turned up an email from an attorney for Fauquier County, Virginia—which passed a “Second Amendment Sanctuary” Resolution—acknowledging in a listserv of local government attorneys throughout Virginia that county boards cannot order Sheriffs **“to not enforce a single type of law or how to carry out their duties.”** Another Virginia attorney who advises local governments, including those that passed such resolutions, wrote in an email that **“there’s also the issue that a Board of Supervisors can’t direct the Sheriff on how to carry out his duties. There are a lot of AG’s opinions and Supreme Court cases on that point.”** A redline version of the Fauquier County resolution shows the addition of language that makes this very point: the “Board of Supervisors is not responsible for law enforcement or criminal prosecution. Law enforcement is entrusted to the Sheriff....”

Nor, despite what the GOA/VCDL memorandum [contends](#) (at p. 5), does the oath that local officials (and, in fact, all public officials) take to obey and uphold the state and federal constitutions do anything to change the analysis. As courts to consider similar arguments have explained, “the oath of office ‘to obey the Constitution’ means to obey the Constitution, not as the officer decides, but as judicially determined.”⁷ In other words, a local official’s “oath of office requires [the official] to follow the law until a court decides it is unconstitutional.”⁸

The Virginia Supreme Court has similarly and repeatedly explained—as Attorney General Herring emphasized in his December 20, 2019 [legal opinion](#) (“AGO”) (at p. 3)—that “[a]ll actions

⁶ It appears that the main modern-day proponent of this theory is a pastor in Milwaukee who has also called for the creation of an expressly Christian government in the United States. See <https://lessermagistrate.com/the-laws-of-a-nation-should-mirror-the-law-and-justice-of-god-video-13/> and <https://lessermagistrate.com/the-destructive-influence-of-pietism-in-american-society/>.

⁷ *State ex rel. Atlantic Coast Line R.R. v. State Bd. of Equalizers*, 94 So. 681, 682-83 (Fla. 1922); accord *Lockyer v. City & Cty. of S.F.*, 95 P.3d 459, 486 (Cal. 2004); *Commonw., Dep’t of Health v. Hanes*, 78 A.3d 676, 690 n.29 (Pa. Commw. Ct. 2013).

⁸ *Hanes*, 78 A.3d at 690 n.29; see also *Lockyer*, 95 P.3d at 485 (explaining that “a public official ‘faithfully upholds the Constitution by complying with the mandates of the Legislature, leaving to courts the decision whether those mandates are invalid’”).

of the General Assembly are presumed to be constitutional.”⁹ That includes, of course, gun safety laws. And, despite what VCDL and GOA might wish, any disputes over the constitutionality of state laws are left to be resolved not by county, city, and other local officials, but by the state and federal judiciary.

Both the Virginia Supreme Court and the U.S. Supreme Court could not be clearer on this point: “[i]t is emphatically the province and duty of the judicial department to say what the law is.”¹⁰ As Attorney General Herring noted in his opinion, “it has long ‘been the indisputable and clear function of *the courts*, federal and state, to pass upon the constitutionality of legislative acts.”¹¹ This is not the role and function of local officials. They are instead “charged to enforce laws until and unless they are declared unconstitutional” by a court.¹²

Efforts by local officials in other parts of the country to assert authority not to enforce other types of state laws because of their own personal interpretation of the state or federal constitutions have been consistently and repeatedly rejected by courts.¹³ That principle applies to gun laws just as it does to any other.

⁹ *Hess v. Snyder Hunt Corp.*, 392 S.E.2d 817, 820 (Va. 1990); *see also Montgomery Cty. v. Va. Dep’t of Rail & Pub. Transp.*, 719 S.E.2d 294, 300 (Va. 2011) (stressing that “[t]here is, indeed, no stronger presumption known to the law”).

¹⁰ *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803); *Fitzgerald v. Loudoun Cty. Sheriff’s Office*, 771 S.E.2d 858, 860 (Va. 2015) (quoting *Marbury*, 5 U.S. 15 177).

¹¹ AGO at 3-4 (quoting *Wise v. Bigger*, 79 Va. 269, 273 (Va. 1884)). Federalist No. 78—which VCDL and GOA bizarrely attempt to rely on in their memorandum (at p. 3)—makes this point clear as well. *The Federalist* No. 78 (Hamilton) (“The interpretation of laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges, as a fundamental law. It therefore belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body.”); *see also Cooper v. Aaron*, 358 U.S. 1, 18 (1958) (noting that *Marbury v. Madison* “declared the basic principle that the federal judiciary is supreme in the exposition of the law of the Constitution, and that principle has ever since been respected by this Court and the Country as a permanent and indispensable feature of our constitutional system”).

¹² *Freeman v. Commonwealth*, 778 S.E.2d 519, 526 (Va. 2015) (quoting *Michigan v. DeFillippo*, 443 U.S. 31, 38 (1979); *see* AGO at 4 & n.23.

¹³ *See Lockyer*, 95 P.3d at 473 (holding that city and county officials did not possess the authority to disregard the terms of a state marriage statute, by issuing marriage licenses to same-sex couples, in the absence of a judicial determination that the law was unconstitutional); *Li v. State*, 110 P.3d 91, 102 (Or. 2005) (en banc) (determining that local officials could not ignore state statutes and act on their own independent interpretations of the state or federal constitutions in fashioning their own remedies for what they perceived to be constitutional wrongs); *Hebel v. West*, 803 N.Y.S.2d 242, 178 (N.Y. App. Div. 2005) (holding that mayor “clearly exceeded his role” by declaring state marriage statutes unconstitutional and performing marriages for same-sex couples based on his own conclusion that state law “violated the constitution”); *Hanes*, 78 A.3d at 691 (holding that “it is clear that [county clerk] did not have the power to decide on his own that the law is unconstitutional and to issue marriage licenses to same-sex couples”); *Dep’t of State Highways v. Baker*, 69 N.D. 702, 290 N.W. 257, 258 (1940) (state auditor did not have the

Finally, within all the noise created here by the local resolutions and the dangerous arguments espoused by VCDL and GOA, it must not be forgotten that the proposed gun safety laws at issue here, which are currently under consideration by the Virginia General Assembly, are plainly constitutional. For example, [background checks](#), [red flag laws](#), and [assault weapon and large-capacity magazine prohibitions](#) have been repeatedly found by courts throughout the country not to violate the Second Amendment or any other constitutional provision. This includes the federal appeals court with jurisdiction over Virginia, which upheld Maryland’s assault weapon and large-capacity magazine prohibition against a Second Amendment challenge.¹⁴

VI. Comparisons Put Forth About Same-Sex Marriage and Immigration “Sanctuary” Cities Are Misguided and Misleading

VCDL and GOA blatantly misrepresent the legal position that the Attorney General took in 2014 with respect to Virginia’s then-existing ban on same-sex marriage. While the Attorney General did decide at that time that he could not defend in litigation the constitutionality of Virginia’s marriage law and would instead argue to the court that the law was unconstitutional, he did not, as VCDL and GOA wrongly assert in their December 26, 2019 memorandum, “refuse[] to enforce” the law. Rather, as the Attorney General made clear in the filed “[Memorandum in Support of Change of Legal Position](#)” document (at p. 6) that VCDL and GOA selectively and misleadingly quote from in their memorandum, the State of Virginia (and, in particular, the State Registrar of Vital Records, whose responsibility it was to do so) would “continue to enforce the law until the important constitutional question presented c[ould] be adjudicated” by the courts.”¹⁵

This approach by the Attorney General—*i.e.*, to decline to defend and argue against the disputed law in litigation while continuing to enforce it until the courts definitively ruled it was unconstitutional—is the same one that the President and the U.S. Attorney General took with respect to the federal Defense of Marriage Act.¹⁶ And it is nothing at all like the lawless call by

power to refuse to issue warrants for disbursement of state gasoline tax funds, where he believed the tax to be unconstitutional); *State ex rel. Chicago, R. I. & P. Ry. Co. v. Becker*, 328 Mo. 541, 547, 41 S.W.2d 188, 190 (1931) (holding, in a case about tax exemptions for railroad companies, that “[i]t is well settled in this state and in a great majority of our sister states that, as a general rule, a ministerial officer cannot defend his refusal to perform a duty prescribed by a statute on the ground that such statute is unconstitutional”).

¹⁴ See *Kolbe v. Hogan*, 849 F.3d 114, 137-38 (4th Cir. 2017) (en banc).

¹⁵ See [Memorandum in Support of Change in Legal Position](#) at 1 (“Rainey will continue to enforce the disputed provisions of Virginia law, in her official capacity as State Registrar of Records, until the judicial branch renders a decision that conclusively adjudicates the question.”); see also Markus Schmidt, *Herring to Back Same-Sex Couples in Virginia*, Richmond Times-Dispatch, Jan. 23, 2014 (“Under a directive from Herring’s office, court clerks around Virginia are still prohibited from handing out marriage licenses to same-sex couples.”).

¹⁶ See *Walter Dellinger, The DOMA Decision*, New Republic, Mar. 1, 2011, <https://newrepublic.com/article/84353/gay-marriage-obama-gingrich-doma> (“Here, the president has

VCDL and GOA for unilateral defiance of state gun laws at the local level. The Attorney General’s approach in 2014 instead respected the institutional roles of all government actors and allowed the constitutionality of the law to be resolved, where it properly must be, in the courts.

VCDL and GOA also misleadingly compare these lawless resolutions by Virginia localities to the Governor’s actions in vetoing bills that would have limited the ability of local governments in Virginia to “restrict[] the enforcement of federal immigration laws.” And they do the same by attempting to find support for their theories in a bill passed by the Virginia General Assembly that limited the ability of the Commonwealth—or any political subdivision of the Commonwealth—to aid the federal government in detaining U.S. citizens under the authority of the National Defense Authorization Act for Fiscal Year 2012 (a provision of which concerned the use of certain military detention procedures for U.S. citizens). But these examples completely ignore crucial differences between the state-federal relationship and the local-state relationship and fundamental principles of constitutional law.

The U.S. Constitution—both in text and in its structure—incorporates the principle of dual sovereignty as between the states and the federal government.¹⁷ Thus, the federal government may not compel states or localities (or their officers) “to enact or enforce a federal regulatory program.”¹⁸ But there is no corollary in Virginia that incorporates a dual sovereignty as between the Commonwealth and local governments. Quite the contrary: the Virginia constitution provides for the supremacy of the General Assembly over local governments, which are not sovereign.¹⁹ As explained in Attorney General Herring’s December 20, 2019 opinion, state government may command local governments to enact or enforce a state regulatory program—including duly enacted state gun laws.

In the case of Governor Northam’s veto of a bill that would have limited the ability of local governments to decline to participate in federal immigration enforcement, that was based on a wholly proper policy judgment. Those courts that have considered the issue have held that it is

decided to comply with the law and leave the final decision of its constitutionality to the courts, a course of action that respects the institutional roles of both Congress, which passed the law, and the judicial branch.”)

¹⁷ See *Printz v. U.S.*, 521 U.S. 898, 918-19 (1997) (“Although the States surrendered many of their powers to the new Federal Government, they retained ‘a residuary and inviolable sovereignty.’”).

¹⁸ *Id.*; see also *Murphy v. Nat’l Collegiate Athletic Ass’n*, 138 S. Ct. 1461, 1475, 200 L. Ed. 2d 854 (2018) (“The anticommandeering doctrine may sound arcane, but it is simply the expression of a fundamental structural decision incorporated into the Constitution, i.e., the decision to withhold from Congress the power to issue orders directly to the States.”).

¹⁹ *Wright v. Norfolk Electoral Bd.*, 286 S.E.2d 227, 228 (Va. 1982) (“A municipal corporation, unlike a state, is not a sovereign at common law. Municipalities are created by the state and may be abolished by it. The state may delegate certain of its powers to the municipality and change this delegation at will.”).

plainly within the ability of state governments to determine whether they want to participate in enforcement of federal immigration laws.²⁰

Conclusion

While so-called Second Amendment Sanctuary Resolutions generally have no legal force or effect, they nonetheless threaten to undermine the rule of law all across the country and rely upon discredited legal doctrines with a history of ties to white supremacist ideology. Sheriffs, county boards, and other local politicians take an oath to uphold and enforce the law; they are not empowered—as the resolutions wrongly suggest—to decide for themselves which laws are constitutional and which are not. The documents revealed in Everytown’s FOIA also demonstrate that some of the organizers of such resolutions are selling their supporters a false bill of goods, as they well-know of the legal insignificance of such resolutions. Finally, the resolutions are dangerous: they misleadingly suggest some or all gun laws don’t apply or can’t or won’t be enforced in the jurisdiction; they are likely to have a chilling effect on people who otherwise might use a life-saving gun safety law to prevent a suicide, homicide, or mass shooting; and they also may result in more guns in the hands of people with criminal or other dangerous histories if new, strong gun safety laws go unenforced.

²⁰ See, e.g., *United States v. California*, 921 F.3d 865, 890-91 (9th Cir. 2019) (noting that “California has the right, pursuant to the anticommandeering rule, to refrain from assisting in federal [immigration enforcement] efforts”), *petition for cert. docketed*, No. 19-532 (U.S. Oct. 23, 2019) ; *Oregon v. Trump*, 406 F. Supp. 3d 940, 970-73 (D. Or. 2019), *appeal docketed*, No. 19-35843 (9th Cir. Oct. 4, 2019).