

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

City of El Cenizo, Texas, Mayor Raul L. :
Reyes of City of El Cenizo, Maverick :
County, Maverick County Sheriff :
Tom Schmerber, Maverick County Constable :
Pct.3-1 Mario A. Hernandez, and League of :
United Latin American Citizens, :
:

Plaintiffs, :

v. :

Civil Action No. 5:17-cv-404-OLG

State of Texas, Governor Greg Abbott (In :
His Official Capacity), and Texas Attorney :
General Ken Paxton (In His Official :
Capacity) :
:

Defendants. :

DECLARATION OF ALEXIS WARREN

I, Alexis Warren, declare as follows:

I make the statements in this Declaration based on my own personal knowledge, and if called to testify I could and would do so competently as follows:

1. I am a paralegal with the American Civil Liberties Union Foundation Immigrants’ Rights Project. I work with the attorneys representing Plaintiffs-Petitioners in the instant case.

2. On June 4, 2017 I visited the website of The New Yorker and downloaded a copy of the article “Why Police Chiefs Oppose Texas’s New Anti-Immigrant Law” by Jonathan Blitzer, June 2, 2017, *available at* <http://www.newyorker.com/news/news-desk/why-police-chiefs-oppose-texass-new-anti-immigrant-law>. A true and correct copy of this article is attached to this Declaration as Exhibit A.

3. On June 4, 2017 I visited the website of the NBC News and downloaded a copy of the article “ACLU: Tucson Traffic Stops for Immigration Checks Violating Rights” by Suzanne Gamboa, May 2, 2017, *available at* <http://www.nbcnews.com/news/latino/aclu-tucson-traffic-stops-immigration-checks-violating-rights-n566326>. A true and correct copy of this article is attached to this Declaration as Exhibit B.

4. On June 2, 2017 I visited the website of The Houston Chronicle and downloaded a copy of the article “Police chiefs: SB4 is a ‘lose-lose’ for Texas” by Art Acevedo and James McLaughlin, April 30, 2017, *available at* <http://www.houstonchronicle.com/opinion/outlook/article/Police-chiefs-SB-4-is-a-lose-lose-for-Texas-11110336.php>. A true and correct copy of this article is attached to this Declaration as Exhibit C.

5. On June 2, 2017 I visited the website of the San Antonio Current and downloaded a copy of the article “Texas’ Big-City Police Chiefs Hate The ‘Sanctuary Cities’ Bill” by Michael Barajas, May, 1, 2017, *available at* <http://www.sacurrent.com/the-daily/archives/2017/05/01/texas-big-city-police-chiefs-hate-the-sanctuary-cities-law>. A true and correct copy of this article is attached to this Declaration as Exhibit D.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 4th day of June, 2017 in New York, New York.



Alexis Warren

Exhibit A

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NEWS DESK

WHY POLICE CHIEFS OPPOSE TEXAS'S NEW ANTI-IMMIGRANT LAW

By Jonathan Blitzer June 2, 2017

Some of the most vocal critics of Senate Bill 4 are leaders of Texas's law-enforcement community, like Art Acevedo, the Houston police chief.

Last month, Greg Abbott, the Republican Governor of Texas, signed into law an anti-immigrant measure allowing local police officers to ask for the citizenship status of anyone they detain. This sort of provision—often called a “show me your papers” law—has been attempted at the state level before, most notoriously in Arizona, which passed a measure in 2010 that was subsequently blocked in federal court. In response to the new law, civil-rights groups and several Texas city governments have

filed lawsuits against the measure. Earlier this week, thousands of demonstrators descended on the state capitol, in Austin, to protest on the last day of the legislative session, prompting one overwhelmed Republican representative to call Immigration and Customs Enforcement (ICE), presumably so that agents could arrest and deport members of the opposition while they stood in a gallery of the statehouse.

Texas's law, known as Senate Bill 4 (S.B. 4), is in some ways even harsher than the one Arizona passed seven years ago: the new measure allows state authorities to punish any police chief or sheriff who tells his or her subordinates not to act as de-facto immigration agents. Violators face steep fines (a thousand dollars for the first offense and up to twenty-five thousand dollars thereafter) as well as potential removal from office. For this, and other reasons, some of the most vocal critics of S.B. 4 are leaders of the state's law-enforcement community.

On April 28th, just after the bill passed the Texas House of Representatives, a group of police chiefs led by David Pughes and Art Acevedo—the heads of the Dallas and Houston Police Departments, respectively—wrote a public statement urging lawmakers to reconsider. “No one believes in the rule of law more than police officers,” they began, but this bill was “political pandering that will make our communities more dangerous.” In their eyes, the bill would undermine the work they've done to build trust in the communities they police.

Police chiefs have been speaking out against the bill since it was introduced in the State Senate, last fall. “It's kind of amazing that, during the initial hearing, the senators had all these chiefs and sheriffs from across Texas speaking against the bill—and they totally ignored the people in law enforcement,” the El Paso County sheriff, Richard Wiles, told me this week. He said that his staff is overworked as it is. “My officers are too busy to waste their time doing another agency's work,” he said. “If there is an officer who wants to do this, we can't stop him under the new law. The only area where one of my officers could now be allowed to go out there and ignore his own bosses is on immigration. It's crazy.”

Wiles believes that the law will make daily policing more difficult. “We want people to report crime, whether they're a victim or a witness, regardless of their immigration

status,” he said. If individuals are scared they’ll be deported when they come forward, key leads will dry up and crimes will become harder to solve. Acevedo, the Houston police chief, pointed out that such an outcome would affect citizens and noncitizens alike. “What if the only witness to a crime is an undocumented nanny, or the gardener, or a construction worker?” he said. “And now they don’t call in what they see!” Acevedo told me that this year, amid rising fears of a federal immigration raids, there’s been a forty-two-per-cent reduction in reports of rapes in Latino communities in the Houston area, even though the crime rate itself hasn’t declined. “That does not bode well,” he said. “Community policing is something that’s been at the core of American law enforcement for the last twenty or thirty years. It’s resulted in historically low crime rates despite population growth and despite the fact that most departments are understaffed and under-resourced. I’m not going to sit idly by while calls for service are piling up and an officer decides to go, instead, to a Home Depot to harass day laborers.”

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Bills like S.B. 4 had circulated in the Texas legislature in years past, pushed by conservative state lawmakers looking to make a statement. Gregorio Casar, a member of the Austin City Council, told me, “There have been forces here in Texas that have wanted this bill and bills like it for a long time. But they weren’t serious threats. Texas on immigration policy was like the dog that barked but didn’t always bite.” That changed in January, after Donald Trump issued an executive order on so-called

sanctuary cities, threatening to withhold federal money from local jurisdictions that didn't do ICE's bidding. There is no set definition of what makes a sanctuary city—different cities have instituted their own immigrant-friendly laws and guidelines—but the Administration was trying to compel local officials to do more to help federal immigration agents.

After Trump issued the order, Sally Hernandez, the sheriff of Travis County, Texas, publicly criticized it. “We cannot afford to make our community less safe by driving people into the shadows,” she said at the time. Abbott, the Governor, responded by promising a total “crackdown” on sanctuary cities in the state. On January 31st, in his State of the State address, he identified the war on sanctuary cities as a top policy priority. He also punished Travis County, specifically, by withholding \$1.5 million in state funding. S.B. 4 had been introduced a few months earlier, and Republicans quickly rallied to the Governor's call, passing the measure in the State Senate on February 8th.

As the House debated the bill, Steve Adler, the mayor of Austin—which is the Travis County seat—travelled to Washington with a delegation of mayors from across the country to meet with Jeff Sessions, the Attorney General. Adler and the other mayors wanted to know if the federal government considered their cities “sanctuaries.” More specifically, they wanted clarification on whether cities were legally required to comply with so-called detainer requests—when ICE asks local law-enforcement officials to hold, for an extended period of time, an undocumented person who was arrested, even if he or she hadn't been charged with a crime. Several of the mayors present interpreted the Attorney General's answer as a no, and they gave press conferences after the meeting to announce that they'd left feeling reassured. “I walked out of that meeting saying, ‘O.K., this is what the Attorney General is telling me,’ ” Adler recalled. He thought that having clarification from the Justice Department would slow down the legislative push in his home state. But it didn't; neither did the ruling of a federal judge, who blocked the President's executive order for unfairly punishing sanctuary cities.

I asked Cecillia Wang, the deputy legal director of the A.C.L.U., which has also filed suit against the law, how S.B. 4 ranks among other infamously harsh anti-immigrant

laws that have been passed in recent years, like Arizona's. She told me that she sees Texas's law as especially harmful because it puts local officials in a significant legal bind. Over the years, people have sued local police departments for holding them without a valid warrant at the behest of ICE, and the courts have ruled that municipalities bear legal liability in such cases. "The various detainer lawsuits over the past several years make it clear that this law is a bad idea, and yet the Texas legislature and the Governor shoved it down their own police chiefs' and sheriffs' throats," Wang said. "It's stripping away their ability to do their job as they see fit, which is to protect public safety."

Acevedo, the Houston police chief, saw an irony in this. "Texas politicians always complain that Washington is trying to dictate to them how to do things," he told me. "Now they're turning around and doing the same thing to the cities in their own state."

Jonathan Blitzer is a contributing writer to newyorker.com. He has written for the magazine since 2014, and was a finalist for a 2016 Livingston Award.

MORE: IMMIGRATION

WATCH: In Georgia, where undocumented immigrants are banned from the top public universities, they have a school of their own.

Exhibit B

NEWS MAY 2 2016, 6:14 PM ET

ACLU: Tucson Traffic Stops for Immigration Checks Violating Rights

by SUZANNE GAMBOA

American Civil Liberties Union of Arizona said Monday its review of Tucson police records found the department is, with help from the Border Patrol, prolonging traffic stops beyond necessary to check the immigration status of people it stops.

The ACLU alleges the extended stops are constitutional violations and go beyond a requirement in Arizona's SB 1070 law that officers make a "reasonable attempt" to determine immigration status.

The group said those stops happened in about 85 of the 110 cases it reviewed in records dating from June 2014 to December 2015. The records were obtained through an open government request.

The group said the stops "reflect a fundamental misunderstanding of the Fourth Amendment's prohibition on prolonging stops and limits on the authority of local police to enforce immigration laws."

The ACLU sent a letter to Tucson Chief of Police Chris Magnus with its complaints about the practices and failures by the department to properly train and provide accurate guidance to its officers.

RELATED: Phoenix Murals Turn Immigration Controversy into Latino Pride

The ACLU also sent a second letter to Homeland Security Secretary Jeh Johnson, complaining of Border Patrol participation in the prolonged traffic stops.

The involvement of Border Patrol officers shows "disregard for DHS enforcement priorities and contradicts the Obama administration's commitment ... to limit the involvement of federal immigration officials in traffic stops by Arizona law enforcement ...," the letter to Johnson said.

Lyll said the ACLU had received complaints about the delayed stops from members of the community and filed complaints with police prior to Monday's letters. But he said the Tucson police records confirmed the largely anecdotal evidence from community members.

The Tucson police has made reforms to its immigration enforcement policies over time, but the ACLU said they are inadequate.

According to ACLU's records review, the stops often were stretched beyond needed because Border Patrol did not have a record of the person stopped by police in its database.

In more than a dozen of the prolonged stops false hits or false positives were returned on U.S. citizens or legal residents - almost exclusively Latinos. Some had been transferred to Border Patrol custody on the misinformation.

The ACLU demanded an investigation of Border Patrol's involvement in its enforcement of SB 1070, Arizona's immigration enforcement law once considered the strictest in the country. It also asked DHS for national standards limiting Border Patrol involvement in local law enforcement activities and to collect basic data on the stops.

Lyll said the involvement of Border Patrol in local police stops "flies in the face" of the administration's statements that it would limit the role of the federal government enforcing "this bad law."

The Tucson police department did not have an immediate response to the complaints.

"We have been made aware of the ACLU's letter and we're reviewing it at this time," said officer Dan Lucas who responded to a call from NBC News Latino to the Tucson police department's public information office.

The Border Patrol also was reviewing its letter from the ACLU of Arizona and so did not have immediate comment, said Dan Hetlage, deputy director for media at Customs and Border Protection in Washington, D. C. Hetlage said the agency focuses its enforcement resources according to the secretary's priorities for immigration enforcement, with priority given to public and national threats.

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Exhibit C



Police chiefs: SB 4 is a 'lose-lose' for Texas

By Art Acevedo and James McLaughlin | April 30, 2017

7

No one believes in the "rule of law" more than the Texas Police Chiefs Association and the Texas Major Cities Chiefs, which besides Houston include Austin, Arlington, Dallas, Fort Worth and San Antonio. We work tirelessly to make our communities safer, within the confines of the U.S. Constitution, by arresting those who commit criminal actions that threaten our communities. We specifically target those individuals committing violent crimes and arrest anyone who threatens the safety of our communities, regardless of their immigration status.

Police chiefs across the state work extremely hard to develop law enforcement agencies that build and maintain trust, communication and stronger relationships with minority communities through community-based policing and outreach programs. So we know well that no good can come of Senate Bill 4, which the state House of Representatives, joining the state Senate, passed last week.

SB 4 requires local law enforcement to take a more active role in immigration enforcement; this will tear down what we've worked so hard to build up. Officers will start inquiring about the immigration status of every person they come in contact with, or worse, only inquire about the immigration status of individuals based on their appearance. This will lead to distrust of police, less cooperation from members of the community and will foster the belief that they cannot seek assistance from police for fear of being subjected to an immigration-status investigation. This is a lose-lose situation for everyone.

Distrust and fear of contacting or assisting the police has already become evident among legal immigrants. Legal immigrants are beginning to avoid contact with the police for fear that they themselves or undocumented family members or friends may become subject to immigration enforcement. Such a divide between the local police and immigrant groups will result in increased crime against immigrants and in the broader community, create a class of silent victims, and eliminate the potential for assistance from immigrants in solving crimes or preventing crime. It should not be forgotten that by not arresting criminals who victimize our immigrant communities, we are also allowing them to remain free to victimize the rest of us.

Law enforcement in Texas works cooperatively with federal law enforcement agencies, including ICE, to disrupt violent street gangs and others who threaten our communities. If federal agencies file criminal charges or obtain judicially reviewed warrants on any person, local law enforcement officers arrest the person regardless of immigration status.

Senate Bill 4 reinforces the call by some for local police to become more involved in enforcing federal immigration laws; however, to comply with these constitutionally questionable requirements means stretching already limited resources. At a time of strained law enforcement budgets and critically low jail space, narrowing the focus to violent criminals, human traffickers, gun

TRANSLATOR

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traffickers and members of organized crime syndicates is critical. Requiring local law enforcement to prioritize immigration efforts, without adequate funding or increased support from involved governmental agencies, will hinder an agency's ability to focus its limited resources on the unique needs of the community it serves.



Friday letters: Trump's trip, Kathy Griffin, bootstrap philosophy



Levinson: What are "sincerely held religious beliefs?" Nobody

Immigration enforcement is first and foremost a federal obligation. Any immigration reform must begin with the federal government. While the federal government has not been able or willing to address this issue, any effort by the state of Texas to address immigration reform will be ineffective. SB 4 is not the answer to comprehensive immigration reform; rather it is political pandering that will make our communities more dangerous.

If the Legislature is serious about removing undocumented persons, there are better ways. One would be to address businesses that hire undocumented workers, the primary reason undocumented persons enter this state. The Texas Major Cities Chiefs and the Texas Police Chiefs Association respectfully request that the Legislature reconsider SB 4. This legislation will make our communities more dangerous for all.

Acevedo is chief of the Houston Police Department. McLaughlin is executive director of the Texas Police Chiefs Association. Other chiefs supporting this commentary are listed at houstonchronicle.com/opinion.

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Exhibit D

Texas' Big-City Police Chiefs Hate The "Sanctuary Cities" Bill

Monday, May 1, 2017

Posted By Michael Barajas on Mon, May 1, 2017 at 11:15 am



Last week, after a bitter and hours-long debate, the Texas House passed the latest version of Arizona's infamous "papers please" law, **a crackdown on so-called "sanctuary cities"** and one of Gov. Greg Abbott's top priorities this session.

While the measure, **Senate Bill 4**, seems destined for Abbott's desk, some of the loudest voices opposing it are police chiefs in the state's biggest cities who argue that forcing local departments to enforce federal immigration law would increase crime and alienate entire communities where cops have been working to forge stronger relationships and cooperation.

In an open letter this weekend, six of Texas' top police chiefs, including SAPD Chief William McManus, call SB 4 a dangerous mistake. "This is not a political issue for police chiefs," they write. "It's a practical issue that will affect public safety." Chiefs in Austin, Arlington, Dallas, Fort Worth and Houston also signed the letter.

Indeed, chiefs like McManus have raised their hands in opposition **every time** the legislature drags up the "sanctuary cities" boogeyman. That's because most of the state's large police departments realized a long time ago that pushing immigrant communities into the shadows makes people less likely to report crime and therefore makes cities less safe. As the chiefs put it in their letter this weekend, a law "requiring local law enforcement to take a more active role in immigration enforcement will further strain the relationship between local law enforcement and the diverse communities we serve."

Per their letter:

"Distrust and fear of contacting or assisting the police has already become evident among legal immigrants as well. Legal immigrants are beginning to avoid contact with the police for fear that they themselves or undocumented family members or friends may become subject to immigration enforcement. Such a divide between the local police and immigrant groups will result in increased crime against immigrants and in the broader community, create a class of silent victims, and eliminate the potential for assistance from immigrants in solving crimes or preventing crime. It should not be forgotten that by not arresting criminals that victimize our immigrant communities, we are also allowing them to remain free to victimize every one of us. When it comes to criminals, we are in this together, regardless of race, sex, religion or nation of origin. SB 4 will make our communities more dangerous, not safer, as we presume the legislature intended."

Police say this is not an abstract concern. Houston's chief has said that already the number of Hispanics reporting rape in that city is **down 43 percent** from last year, and that the number of Hispanics reporting other violent crimes saw a 13 percent dip during that same timeframe. Hours after the Texas House advanced the bill last week, **McManus held a press conference to tell reporters**, "We are very, very fearful that the community will no longer cooperate with us because of this bill." He said there's "not one thing in this bill that I consider to be positive, nor do my colleagues consider to be positive."

That's also because under the bill, chiefs like McManus could no longer enforce their own internal policies barring cops from asking about immigration status in routine law enforcement encounters. Like, say, a traffic stop. "That takes away our authority to direct our officers not to do something," he said — like racial profiling.

As for racial profiling, McManus was blunt on who that would largely affect in Texas:

"We're talking about folks south of the border. We're not talking about people we think might be here from Russia or from somewhere else. We're talking about out people south of the border," he said. "In order for me to identify someone who I don't think is from here, it's either skin color, language or accent. And in order to do, that I'm profiling. So that's another part of the bill that's distasteful, to say the least."

McManus also said that should SB 4 be signed into law, San Antonio would likely have to train its police officers on immigration law. He said he had no idea how much that might cost, but added, "It ain't gonna be cheap."

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