

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

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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 TOM SCHMERBER**

1. My name is Tom Schmerber, and I am currently the Sheriff of Maverick County, Texas. I was first elected to this position in November 2012 and was reelected in November 2016.
2. I have over 30 years of law enforcement experience. Prior to my election as Sheriff, I was employed by the United States Border Patrol (“USBP”) for 26 years. During my time with the USBP, I was a field agent, a training instructor at the academy, and a field operations supervisor.
3. I am a native of Eagle Pass, Texas—the county seat of Maverick County.

4. I received a Bachelor's in Political Science from Southwest Texas State University in 1974 and a Master's in Education from Sul Ross State University in 1978.
5. Maverick County covers an area of 1,292 square miles.
6. As of the 2010 census, Maverick County had a population of approximately 54,000. Approximately 95% of the population identifies as Hispanic or Latino.
7. I have read Texas Senate Bill 4 ("SB4"), and based on my extensive experience in law enforcement at the federal and local level, I have several concerns with the law.
8. I am concerned that SB4 will subject me to removal from office and will subject me and my employees to civil penalties for endorsing policies that prohibit or limit immigration enforcement.
9. I have made numerous public statements during my campaign for and tenure as Sheriff regarding the participation of local law enforcement in immigration. I have publicly announced that the Maverick County Sheriff's Office will not participate or cooperate in the arrests of individuals for civil immigration violations. I have also publicly opposed having my deputies engage in additional immigration enforcement actions pursuant to SB4 based on our limited resources and lack of training. Given SB4's broad language, I do not know whether I will be subject to liability for making such endorsements.
10. There are several provisions of SB4 that are confusing and do not provide clear guidance on how to ensure that my deputies and I comply with its requirements. For example, I do not understand what actions or decisions would "materially

limit” immigration enforcement or what is considered to be an informal policy or “pattern and practice” that limits immigration enforcement. I also do not understand what SB4 prohibits regarding limitations on “assisting or cooperating with a federal immigration officer as reasonable or necessary.”

11. The Maverick County Sheriff’s Office currently has only 34 deputy sheriffs.

The County does not have the budget to hire more deputies. Given the lack of staff and large population and coverage area in the County, our resources are already overly stretched.

12. Given the lack of clarity in SB4, I fear that I will be required to divert critical and scarce law enforcement resources away from what I believe is necessary to ensure public safety for my constituents. SB4 will take away my ability to limit my deputies’ participation in immigration enforcement when I believe that resources should be focused on local priorities, such as answering calls for service and investigating and preventing violent and property crimes.

13. For example, I do not know if the following decisions will subject me to liability or removal from office: limiting which staff members can engage in immigration enforcement or determining the percentage of time they may spend on such matters; deciding to not participate in a certain immigration taskforce with federal officials or to not provide police backup to immigration agents for a particular immigration enforcement action; and preventing my deputies from investigating a person’s immigration status when such actions would divert them from other more critical tasks. I can imagine several other instances in which I will need to make




decisions based on resources and best policing practices that could be seen as a limitation on my Office's participation in immigration enforcement.

14. There have been several situations when I have declined requests from federal immigration authorities to assist them in the apprehension of individuals. I have done so because of my office's limited resources. Under SB4, I will no longer be able to properly allocate my resources by deciding when to and when not to cooperate with such immigration efforts.
15. SB4 also takes away the discretion necessary for me to determine when our resources permit for compliance with detainer requests from the federal government.
16. Under SB4, I will no longer have the ability to decline detainer requests from the federal government even when I believe I do not have the lawful authority to continue holding an individual—for example, when I understand that there is no justification for detaining the individual pursuant to the federal government's direction. Under SB4, I believe I can no longer take into account whether my office has the resources or even the space to continue detaining an individual pursuant to a request from the federal government.
17. Given the lack of clarity of what constitutes a detainer request, I am also not sure whether I will need to comply with any and all requests from the federal government to detain individuals, including informal or verbal requests by immigration authorities to simply hold a person until they are able to determine whether to take custody.

18. My deputies also lack the training to enforce SB4. My deputies are not trained in immigration law or immigration enforcement, and SB4 does not provide for any training, additional guidance, or resources to ensure compliance with the requirements of SB4.
19. I currently instruct my deputies not to inquire as to an individual's immigration status during a law enforcement contact. Under SB4, I can no longer prohibit my deputies from investigating immigration status.
20. Since my deputies are not trained in determining a person's immigration status, which in my experience is a very complicated determination, I believe that deputies will inevitably rely on race and ethnicity and unlawfully prolong detentions as a result of this practice. This will expose my office to potential legal liabilities.
21. SB4 will also harm the community policing efforts by my office. SB4 sends a message to immigrant communities that my deputies will be engaging in immigration enforcement and inquiring about immigration status.
22. I am highly concerned that people will no longer call to report crimes or to seek help for fear of being questioned or of their family members being questioned about their immigration status. By causing communities to distrust police, SB4 will harm our ability to ensure public safety.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed June 2, 2017 in Houston, Texas.



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Tom Schmerber  
Sheriff of Maverick County