

T E S T I M O N Y

before the

Texas Senate
Committee on State Affairs

against

SB 4

Alex Meed
Pflugerville, TX

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1 The bill inhibits local control

In Travis County, where I live, newly-elected Sheriff Sally Hernandez campaigned on the issue of sanctuary cities—in fact, the only major thing differentiating her from her opponent was that she opposed broad compliance with ICE detainers, while her opponent supported them. This was widely publicized during the campaign, to the extent that the vote for sheriff essentially served as a referendum on whether Travis County should be a sanctuary city. On November 8, Sheriff Hernandez won with approximately 60% of the vote [10], and later she stated that her office would stop complying with ICE detainers in most cases.

But I was upset to see Governor Abbott immediately advocating for Texas not only to take away funding from Travis County, but also to remove her from office. And I was appalled to see Governor Abbott immediately take away that funding yesterday. Governor Abbott’s motive is clear: he wants to stop Sheriff Hernandez from fulfilling her vision for her office—a vision that is compliant with the law, and that Travis County overwhelmingly elected her to realize.

As a democratically-elected public official, Sheriff Hernandez has the right and the duty to carry out the responsibilities of her office. The Texas Legislature should let her and others in similar positions do what the people asked them to do.

2 Sanctuary cities are less vulnerable to crime

It’s commonly argued that sanctuary cities are laden with crime and social deterioration, a line of reasoning President Trump has employed [14]. But a nationwide 2017 analysis by Prof. Tom Wong [15] disagrees.

Wong’s report finds that sanctuary cities have lower crime rates and stronger economic indicators (such as higher household income, lower poverty, lower unemployment, and less reliance on public aid) than their non-sanctuary counterparts. Further, even if we control for factors such as race, urbanness, total population, and the percentage of population that is foreign-born, many of these results remain.

Sanctuary cities are proven to be safer and more economically stable than non-sanctuary cities. Whether or not the members of the committee personally agree with sanctuary cities, it’s clear that establishing a sanctuary policy is a reasonable choice for a local jurisdiction. Taking that choice away will endanger public safety and economic development—an outcome the Legislature must not allow to happen.

3 Sanctuary cities help undocumented communities trust law enforcement

Policies like SB 4 inhibit policing by causing Latinos—even those born in the U.S.—to mistrust law enforcement. A 2012 survey [9] found that 44% of Latinos, 70% of undocumented immigrants, and 28% of American-born Latinos are less likely to tell the police if they have been victimized by a crime, because they fear that police will ask about their immigration status or that of someone they know. And the study highlights what police chiefs in our major cities have feared: survey respondents are afraid that criminals are moving into areas with high populations of undocumented immigrants. The reason? The criminals know their actions won't be reported.

An estimated 11.1 million undocumented immigrants were present in the U.S. in 2014 [6]—that's about 1/29 of the population of the United States. Alienating this crucial segment of America, and impairing the fiduciary relationship between law enforcement and the community it serves, puts Texans at unnecessary risk. Local enforcement of immigration laws isn't protecting us from crime—it's attracting criminals.

4 ICE detainers infringe upon the rights of detainees

ICE detainers do not carry the force of law. They've already been struck down by a U.S. District Court [4]. Another called them a "voluntary request" and "not a criminal warrant" [1]—meaning they don't trigger the Fourth Amendment requirement for probable cause in order to detain a person. Internal ICE documents obtained through FOIA requests state that detainers are "a request" and that there is "no penalty if [local jurisdictions] don't comply" [12]. The reasoning behind this is clear: ICE detainers apply to people charged with a crime, but not necessarily convicted. Detaining anyone who hasn't been charged with a crime violates their right to due process, so ICE has no constitutional authority to enforce detainers. SB 4 creates a false equivalency between federal law and extrajudicial requests.

5 Withholding grant funds impedes local law enforcement

I'm aware that SB 4 specifically bars local law enforcement from making a traffic stop based solely on immigration status, alleviating some police chiefs' concerns that their police departments could serve as a federal deportation force. But this bill hurts law enforcement in other ways.

Yesterday, Governor Abbott announced that he would withhold Criminal Justice Division grants from Travis County—which totaled \$1.8 million last

year [3]—because Sheriff Hernandez did not rescind her policy. That money helps with crucial services for victims of crime, and is used in programs to prevent violence against women and child sex trafficking. No doubt the “state grant funds” in SB 4 encompass that amount and more—holding our most vulnerable Texans hostage to an overreach from the state government.

6 Law enforcement opposes bans on sanctuary cities

Immediately after President Trump’s executive order [2] regarding sanctuary cities, the U.S. Council of Mayors and the Major Cities Chiefs Association issued a joint statement [11] opposing it. The Marshalltown, IA police chief called the order an “unfunded mandate”, one that will tax the department’s already limited resources [13]. And even though the National Fraternal Order of Police, the country’s largest police union, supported President Trump’s action [5], they explicitly stated that they opposed previous congressional bills that would have revoked federal grants for law enforcement in sanctuary cities. SB 4 revokes state grants, so it falls into the same category that the Order opposed at the federal level.

At the state level, SB 4 has also garnered opposition. In 2015, then–Austin Police Chief Art Acevedo and San Antonio Police Chief William McManus both opposed policies that curb sanctuary cities [8], a sentiment that Chief McManus reiterated last month [7].

The institutions who would be most affected by SB 4 oppose it. Take it from them: a state-level mandate against sanctuary cities has no place in Texas.

References

- [1] *Buquer v. City of Indianapolis*, 797 F.Supp.2d 905, 911 (S.D. Ind. 2011).
- [2] Exec. Order No. 13768, 82 Fed. Reg. 8799 (2017).
- [3] The Guardian. Austin takes central role in clash over ‘sanctuary cities’ after sheriff’s pledge, January 27, 2017.
- [4] *Jimenez Moreno v. Napolitano*, 11 C 5452 (N.D. Ill. 2016).
- [5] National Fraternal Order of Police. FOP welcomes action on sanctuary cities. Press release, January 25, 2017.
- [6] Pew Research Center. 5 facts about illegal immigration in the U.S., November 3, 2016.
- [7] San Antonio Express-News. UTSA forum reveals enduring confusion on sanctuary cities, January 28, 2017.

- [8] Texas Tribune. Local battles brewing over sanctuary cities, November 22, 2015.
- [9] Nik Theodore. Insecure communities: Latino perceptions of police involvement in immigration enforcement, May 2013.
- [10] Travis County Clerk. Cumulative results for Travis County, November 8, 2016.
- [11] United States Conference of Mayors. U.S. mayors, police chiefs concerned with sanctuary cities executive order. Press release, January 25, 2017.
- [12] U.S. Immigration and Customs Enforcement, January 26, 2011. ICE 2010 FOIA 2674.017695, available at <http://altopolimigra.com/wp-content/uploads/2011/12/ICE-FOIA-2674.017695.pdf>.
- [13] Voice of America. US police chiefs voice concern over sanctuary city policy, January 26, 2017.
- [14] Washington Post. Trump says sanctuary cities are hotbeds of crime. Data say the opposite, January 27, 2017.
- [15] Tom Wong. The effects of sanctuary policies on crime and the economy, January 26, 2017.