UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

CITY OF EL CENIZO, TEXAS; MAYOR RAUL L. REYES, CITY OF EL CENIZO; MAVERICK COUNTY; MAVERICK COUNTY SHERIFF TOM SCHMERBER; MAVERICK COUNTY CONSTABLE PRECINCT 3-1 MARIO A. HERNANDEZ; and LEAGUE OF UNITED LATIN AMERICAN CITIZENS *Plaintiffs*	)	
v.	)	Civil Action No. 5:17-CV-404-OG [Lead Case]
STATE OF TEXAS; GOVERNOR GREG ABBOTT, in his official capacity; and TEXAS ATTORNEY GENERAL KEN PAXTON, in his official capacity *Defendants*	)	
EL PASO COUNTY; RICHARD WILES, SHERIFF OF EL PASO COUNTY, in his official capacity; and the TEXAS ORGANIZING PROJECT EDUCATION FUND *Plaintiffs*	)	
v.	)	Civil Action No. 5:17-CV-459-OG [Consolidated Case]
STATE OF TEXAS; GOVERNOR GREG ABBOTT; ATTORNEY GENERAL KEN PAXTON; and DIRECTOR STEVE MCCRAW, TEXAS DEPARTMENT OF PUBLIC SAFETY – in their official capacities *Defendants*	)	

and	)	
	)	
CITY OF SAN ANTONIO, TEXAS; WILLIAM MCMANUS; ANA SANDOVAL; CELESTINO GALLEGOS; BEXAR COUNTY, TEXAS; CITY OF EL PASO, TEXAS, REY A. SALDAÑA, in his official capacity as San Antonio City Councilmember; TEXAS ASSOCIATION OF CHICANOS IN HIGHER EDUCATION; LA UNION DEL PUEBLO ENTERO; and WORKERS DEFENSE PROJECT; MARIA VALLADAREZ; and ARMANDO SIMON	)	Civil Action No. 5:17-CV-489-OG
Plaintiffs	)	[Consolidated Case]
	)	
v.	)	
	)	
STATE OF TEXAS; GREG ABBOTT, in his official capacity as Governor of the State of Texas; KEN PAXTON, in his official capacity as Attorney General of Texas; CITY OF ROWLETT; WILLIAM M. BRODNAX, in his official capacity as City of Rowlett Chief of Police; OFFICER JASON WELK, in his individual capacity; and OFFICER BRANDON RICKMAN, in his individual capacity.	)	
Defendants	)	
	)	
	)	

SECOND AMENDED COMPLAINT OF CITY OF SAN ANTONIO, TEXAS, WILLIAM MCMANUS, ANA SANDOVAL,CELESTINO GALLEGOS, BEXAR COUNTY, TEXAS, CITY OF EL PASO, TEXAS, TEXAS ASSOCIATION OF CHICANOS IN HIGHER EDUCATION, LA UNION DEL PUEBLO ENTERO, WORKERS DEFENSE PROJECT, MARIA VALLADAREZ and ARMANDO SIMON

I. INTRODUCTION

1. On May 7, 2017, Texas Governor Greg Abbott signed into law Senate Bill 4 ("SB 4"), explaining that SB 4 was intended to force local jurisdictions to enforce federal immigration law. SB 4 robs local jurisdictions of their ability to supervise police officers and protect public safety, and it coerces local law enforcement into dedicating limited resources to enforcement of federal immigration law. SB 4 forbids local governments and their employees from adopting, enforcing, or even endorsing policies that "prohibit or materially limit the enforcement of immigration laws," including SB 4 itself. SB 4 targets immigrants and the communities in which they live for expanded law enforcement activities, despite the well-documented economic contributions and lower crime rates of immigrants. The effect of SB 4 makes all Texans less safe and is devastating to Texas local governments and institutions of higher education as it hijacks their authority to enact policies that best fit their localities' unique needs.

2. SB 4 imposes draconian monetary, criminal, and removal from office penalties on local officials and employees[1] as well as "campus police departments,"[2] if they depart from the legislation's immigration enforcement requirements—even though Congress has occupied the field of immigration enforcement and compliance with SB 4 subjects local governments to

[1] SB 4, Section 1.01, Subchapter C, Section 752.051, subd. (5), defines "local entities" as:
"(A) the governing body of a municipality, county, or special district or authority, subject to Section 752.052; (B) an officer or employee of or a division, department, or other body that is part of a municipality, county, or special district or authority, including a sheriff, municipal police department, municipal attorney, or county attorney; and (C) a district attorney or criminal district attorney." S.B. 4, 2017 Leg., 85th Sess. (Tx. 2017).

[2] SB 4, Section 752.051(1), defines "campus police department" as "a law enforcement agency of an institution of higher education." The Texas Education Code defines "Institution of higher education" as "any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education as defined in this section." Tex. Educ. Code Ann. § 61.003(8) (West 2012).

liability for violating the constitutional rights of Texans. Plaintiffs City Of San Antonio, Texas, William McManus, Ana Sandoval, Celestino Gallegos, Bexar County, Texas, City of El Paso, Texas, Texas Association of Chicanos in Higher Education ("TACHE"), La Union Del Pueblo Entero ("LUPE"), Workers Defense Project ("WDP"), Maria Valladarez and Armando Simon (collectively, "Plaintiffs") seek a declaration that SB 4 is unconstitutional and seek an injunction against its implementation because it violates the Supremacy Clause and the First, Fourth, Eighth, and Fourteenth Amendments of the United States Constitution.

II. JURISDICTION AND VENUE

3. This Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1343 over Plaintiffs' causes of action under the laws of the Constitution of the United States. This Court has original jurisdiction over Plaintiffs' request for declaratory and injunctive relief under 28 U.S.C §§ 2201 and 2202. Venue is proper in this District under 28 U.S.C. § 1391 (b).

III. PARTIES

4. Plaintiff CITY OF SAN ANTONIO, TEXAS is a home rule municipality organized under the laws of the State of Texas and is located in Bexar County, Texas. Plaintiff CITY OF SAN ANTONIO has the constitutional and statutory authority to set policies and regulations, and to administer health and social service programs for its residents, including those residents that are immigrants. According to the U.S. Census, 64% of the population of Plaintiff CITY OF SAN ANTONIO is Latino. A majority of the councilmembers of Plaintiff CITY OF SAN ANTONIO, including Plaintiff ANA SANDOVAL, are Latino. Plaintiff CITY OF SAN ANTONIO includes elected officials and employees who face civil fines, criminal prosecution and the injury of removal from office for adopting, enforcing or endorsing policies that violate SB 4. Plaintiff CITY OF SAN ANTONIO has suffered injury-in-fact as the result of

being targeted by an SB 4 enforcement action filed by the Texas Attorney General and faces injury-in-fact from SB 4 in the form of drained resources through forced compliance with SB 4's provisions, substantial civil penalties for non-compliance with the law, and the associated budget uncertainty as a result of those penalties and the costs associated with training its police officers and administrative staff on federal immigration law. Plaintiff CITY OF SAN ANTONIO faces mandamus actions and injunctions for violating SB 4 and has already been sued by the Texas Attorney General under SB 4. Due to SB 4's provisions, Plaintiff CITY OF SAN ANTONIO faces liability for violating the Constitutional rights of individuals in San Antonio and the prospect of having to pay damages for those violations.

5. Plaintiff WILLIAM MCMANUS is the police chief of the City of San Antonio. He was appointed by the City Manager, and confirmed by the San Antonio City Council. Plaintiff MCMANUS is the chief law enforcement officer for the seventh largest city in the United States and administers the San Antonio Police Department ("SAPD") which includes more than 2,400 sworn officers as well as 800 additional civilian personnel. Plaintiff MCMANUS establishes and enforces policies and practices for the SAPD and provides information and advice to city officials regarding public safety and policing policies.

6. Plaintiff ANA SANDOVAL is the San Antonio City Councilmember for District 7. SB 4 provides for the removal of officials from elective office for adopting, enforcing or endorsing policies that "prohibit or materially limit" the enforcement of immigration laws. This provision encompasses Plaintiff ANA SANDOVAL's policymaking and political speech, including speaking publicly against SB 4 itself and current federal immigration enforcement and policies, and introducing city ordinances that would limit compliance with SB 4. Plaintiff ANA SANDOVAL also faces heavy fines and removal from office for speaking critically of SB 4,

criticizing federal immigration enforcement practices or adopting, enforcing or endorsing policies that violate SB 4. SB 4 greatly diminishes Plaintiff ANA SANDOVAL's ability to represent fully and adequately the needs of her constituents. Plaintiff ANA SANDOVAL was elected by her constituents to advocate on their behalf, including advocating for policies that protect public safety and reduce racial profiling. SB 4 causes Plaintiff ANA SANDOVAL actual and imminent harm.

7. Plaintiff CELESTINO ("TINO") GALLEGOS is the Immigration Liaison for the City of San Antonio. He was nominated for the position by the San Antonio City Manager and confirmed by the San Antonio City Council. In fulfilling his duties, Plaintiff GALLEGOS coordinates community-based organizations, stakeholder groups, and nonprofit and interfaith organizations to establish a strong network and connect members of San Antonio's immigrant community to services.

8. Plaintiff BEXAR COUNTY is a county organized under the laws of the State of Texas. Bexar County encompasses the City of San Antonio and smaller surrounding cities. The U.S. Census 2018 population estimate for Plaintiff BEXAR COUNTY was 1,986,049. The U.S. Census also estimates that 60% of the population of Plaintiff BEXAR COUNTY is Latino. Plaintiff BEXAR COUNTY is governed by a County Judge and four commissioners and delivers services in the areas of building and maintaining roads, overseeing the administration of correctional facilities, including the county jail, providing and operating the county courthouse, administering elections, collecting property taxes and protecting against threats to public health. Plaintiff BEXAR COUNTY's officials and employees face the injuries of criminal prosecution, civil liability, heavy fines and removal from office under SB 4. Plaintiff BEXAR COUNTY faces additional injury from SB 4 in the form of drained resources through forced compliance

with SB 4's provisions, substantial civil penalties for non-compliance with the law, the associated budget uncertainty as a result of those penalties and the costs associated with training staff on federal immigration law. Plaintiff BEXAR COUNTY faces mandamus actions and injunctions for violating SB 4. Due to SB 4's provision that mandates compliance with all immigration detainers, Plaintiff BEXAR COUNTY faces liability for violating the Constitutional rights of individuals detained in the county jail or in the community and the prospect of having to pay damages for those violations. Plaintiff BEXAR COUNTY faces additional injury from SB 4 in the form of drained resources as a result of administering elections to replace officials removed from office for violating SB 4.

9. Plaintiff CITY OF EL PASO, TEXAS is a home rule municipality organized under the laws of the State of Texas and is located in El Paso County, Texas. Plaintiff CITY OF EL PASO has the constitutional and statutory authority to set policies and regulations, and to administer health and social service programs for its residents, including those residents that are immigrants. Plaintiff CITY OF EL PASO includes its public officials who face the injury of removal from office for adopting, enforcing or endorsing policies that violate SB 4. Plaintiff CITY OF EL PASO faces injury-in-fact from SB 4 in the form of drained resources through forced compliance with SB 4's provisions, substantial civil penalties for non-compliance with the law, and the associated budget uncertainty as a result of those penalties and the costs associated with training its police officers and administrative staff on federal immigration law. Plaintiff CITY OF EL PASO faces mandamus actions and injunctions for violating SB 4. Plaintiff CITY OF EL PASO further faces liability for violating the Constitutional rights of individuals in El Paso and the prospect of having to pay damages for those violations.

10. Plaintiff TEXAS ASSOCIATION OF CHICANOS IN HIGHER EDUCATION

("TACHE") is a statewide professional association committed to the improvement of educational and employment opportunities for Latinos and Chicanos in higher education. TACHE's members include: elected officials of community college districts; administrators, counselors, professors, staff and students at four-year and community colleges; and institutional members such as community colleges and universities throughout Texas. TACHE members are injured by SB 4's limitations on their policies and speech. For example, TACHE members who are officials or employees of community colleges are not permitted to adopt, enforce or endorse policies that differ from SB 4 or current immigration enforcement policies in their classrooms without facing debilitating penalties including lawsuits and heavy fines. TACHE members who are community college trustees face removal from office for adopting, enforcing or endorsing policies that "prohibit or materially limit" the enforcement of immigration laws. TACHE members who are college students and employees face the injury of racial profiling and unwarranted questioning and detention by untrained and unsupervised campus police officers seeking to assist federal immigration authorities.

11. Plaintiff LA UNION DEL PUEBLO ENTERO ("LUPE") is a community union that provides social services, English classes, and helps communities organize to advocate for better living conditions. LUPE has over 8,000 members throughout the Texas Rio Grande Valley. Most of LUPE's members are Latino and some are immigrants who are not authorized to be present in the United States. LUPE members are injured by SB 4, and LUPE is injured as an organization by SB 4. The injuries imposed by SB 4 on LUPE's members include deterred interaction with public safety or local government agencies for fear of immigration questioning and detention, and increased racial profiling of LUPE members by untrained and unsupervised local police officers seeking to assist federal immigration authorities.

12. Plaintiff WORKERS DEFENSE PROJECT ("WDP") is a membership-based organization that works to enable low-income workers to achieve fair employment through education, direct services, and strategic partnerships. Many of WDP's members are Latino, and some are immigrants who are not authorized to be present in the United States. WDP members are injured by SB 4, and WDP is injured as an organization by SB 4. The injuries imposed by SB 4 on WDP's members include deterred interaction with public safety or local government agencies for fear of immigration questioning and detention and increased racial profiling of WDP members by untrained and unsupervised local police officers seeking to assist federal immigration authorities.

13. Plaintiff MARIA VALLADAREZ is Latina and currently resides in Arlington, Texas. Plaintiff VALLADAREZ was unconstitutionally detained in April 2019 by Defendants JASON WELK and BRANDON RICKMAN who are police officers employed by Defendant CITY OF ROWLETT. Plaintiff VALLADAREZ was unconstitutionally detained based on her suspected immigration status pursuant to SB 4 and the official policy and/or custom of Defendant CITY OF ROWLETT.

14. Plaintiff ARMANDO SIMON is Latino and currently resides in Arlington, Texas. Plaintiff ARMANDO SIMON was unconstitutionally detained in April 2019 by Defendants JASON WELK and BRANDON RICKMAN who are police officers employed by Defendant CITY OF ROWLETT. Plaintiff ARMANDO SIMON was unconstitutionally detained based on his suspected immigration status pursuant to SB 4 and the official policy and/or custom of Defendant CITY OF ROWLETT. Plaintiff ARMANDO SIMON is married to Plaintiff MARIA VALLADAREZ.

15. Defendant STATE OF TEXAS is a constituent political entity of the United

States of America and subject to the laws and Constitution of the United States.

16. Defendant GREG ABBOTT is Governor of Texas. Defendant ABBOTT is the chief executive officer and the chief law enforcement officer of the State of Texas. Defendant ABBOTT is responsible for ensuring that the laws of Texas are faithfully executed, including the provisions of SB 4. Defendant GREG ABBOTT is sued in his official capacity.

17. Defendant KEN PAXTON is the Attorney General of the State of Texas. Defendant PAXTON is the officer authorized to bring suit for mandamus or injunctive relief to force compliance with SB 4 and has brought suit against Plaintiff CITY OF SAN ANTONIO and its officials. He is also authorized to bring a removal action against a public official who has violated SB 4. Defendant PAXTON is sued in his official capacity.

18. Defendant CITY OF ROWLETT is a home rule municipality organized under the laws of the State of Texas and is located in Dallas and Rockwall counties in Texas. Defendant CITY OF ROWLETT has the constitutional and statutory authority to set policies and regulations, including for the Rowlett Police Department. Defendant CITY OF ROWLETT is a constituent political entity of Texas and the United States and is subject to the laws and Constitution of the United States.

19. Defendant WILLIAM M. BRODNAX is the Chief of Police for the City of Rowlett, Texas. He is the chief law enforcement officer, and under the direction of the CITY OF ROWLETT, Defendant BRODNAX administers the police department of Defendant CITY OF ROWLETT and oversees its officers. Defendant BRODNAX establishes and enforces policies and customs for the police department of Defendant CITY OF ROWLETT, including the city policies challenged in this lawsuit. Defendant BRODNAX is sued in his official capacity.

20. Defendant OFFICER JASON WELK is a police officer employed by Defendant

CITY OF ROWLETT. He is charged with enforcing state and local laws and has the authority to lawfully detain and arrest individuals. Defendant JASON WELK is sued in his individual capacity.

21. Defendant OFFICER BRANDON RICKMAN is a police officer employed by Defendant CITY OF ROWLETT. He is charged with enforcing state and local laws and has the authority to lawfully detain and arrest individuals. Defendant BRANDON RICKMAN is sued in his individual capacity.

IV. FACTUAL ALLEGATIONS

A. Federal Immigration Scheme

22. The Immigration and Nationality Act ("INA") governs immigration to the United States, the terms under which non-citizens live in the United States, and citizenship. The INA is codified under Title 8 of the United States Code.

23. Under the INA, unauthorized presence in the United States, by itself, is a civil offense, not a criminal offense.

24. The INA thoroughly regulates the enforcement of immigration, including the circumstances under which immigration arrests are made and who enforces immigration law.

25. The INA provides that arrests of non-citizens pending a decision on removal are made pursuant to a warrant issued by the Attorney General (now Secretary of DHS) according to his or her discretion. 8 U.S.C. § 1226(a). Warrantless arrests are made by federal officers under limited circumstances set out in the INA. 8 U.S.C. § 1357 (a) (2) (limiting the authority of immigration officers to make warrantless arrests to situations in which the non-citizen "is likely to escape before a warrant can be obtained.").

26. Authority to detain non-citizens is similarly proscribed by the INA. *See, e.g.* 8

U.S.C. § 1231 and 8 U.S.C. § 1226(a). When an individual is undocumented, the discretion to detain or release that individual rests with federal officers. *See id.* and 8 C.F.R. 236.1. When an individual is detained, federal regulations provide the opportunity to appeal his or her continued detention or the conditions of release from detention. *See* 8 C.F.R. 1003.19.

27. Another provision of the INA, 8 U.S.C. 1357, titled "Powers of immigration officers and employees," sets out the authority of DHS officers and employees to, among other things, "interrogate" an individual "believed to be an alien as to his right to be or to remain in the United States." 8 U.S.C. § 1357 (a) (1).

28. The INA prescribes the limited circumstances under which federal, state, and local officials cooperate in immigration enforcement. Section 287(g) of the INA—codified at 8 U.S.C. § 1357(g)—enables state or local law enforcement to enter into agreements with United States Immigration and Customs Enforcement (hereinafter "ICE") that authorize designated and trained local law enforcement officers to perform immigration-enforcement functions under federal supervision. Section 1357(g)(1) states:

> [T]he Attorney General may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the Attorney General to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law.

29. In order to participate in an agreement under 8 U.S.C. 1357(g), state or local law enforcement officials must meet stringent criteria, at their own expense, including, but not limited to, receiving adequate training on enforcement of federal immigration laws. 8 U.S.C. § 1357(g)(2)–(6).

30. Agreements under 8 U.S.C. 1357(g) limit participation to those officers or employees "determined by the Attorney General to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States." 8 U.S.C. § 1357(g).

31. Although the INA provides that a local officer can otherwise "cooperate" with federal authorities in immigration enforcement, in all circumstances in which the INA contemplates local cooperation with federal authorities in immigration enforcement, local activities are supervised by federal authorities. 8 U.S.C. 1357(g)(3) provides: "In performing a function under this subsection, an officer or employee of a State or political subdivision of a State shall be subject to the direction and supervision of the Attorney General."

32. The INA imposes no obligation on local jurisdictions to ask about immigration status or otherwise to enforce immigration law. The INA also does not require any state or locality to enter into an agreement under 8 U.S.C. 1357(g).

33. The INA limits its requirements of states and localities to the following provision in 8 U.S.C. § 1373(a):

> [A] Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

34. 8 U.S.C. § 1373 does not require state or local government officials to collect, maintain, or report information regarding the immigration status of individuals. Instead, it bars policies that prohibit local entities from exchanging such information with federal officials.

35. A May 31, 2016 memorandum of the Inspector General of the U.S. Department of Justice confirmed that § 1373 "does not 'require' the disclosure of immigration status

information."[3]

36. Neither § 1373 nor any other provision of federal law contains a penalty for non-compliance with § 1373.

37. In all of the INA provisions that set forth ways in which federal, state, and local governments cooperate in immigration enforcement, the cooperation is voluntary on the part of the local government, not mandatory.

38. The INA provides that federal officers may issue a detainer to federal, state, or local officials who have custody of a non-citizen arrested for violation of "any law relating to controlled substances." 8 U.S.C. 1357(d). This same provision requires federal agents to "effectively and expeditiously take custody of the alien" if the federal, state, or local officials decide not to follow the detainer.

39. Federal regulations codified at 8 C.F.R. § 287.7 authorize federal officials to issue immigration detainers to "any other Federal, State, or local law enforcement agency" and further provide that "[t]he detainer is a *request* that such agency advise [ICE], prior to the release of the alien, in order for [ICE] to arrange to assume custody, in situations when gaining immediate physical custody is either impracticable or impossible." 8 C.F.R. § 287.7(a) (emphasis added).

B. <u>Texas Senate Bill 4</u>

40. SB 4 authorizes local police officers and other local employees to make immigration inquiries and otherwise "assist" in federal immigration enforcement. At the same time, SB 4 prohibits local officials and employees from adopting, enforcing or endorsing any policy that "prohibits or materially limits" the enforcement of immigration laws. The penalty for

[3] Memorandum from Michael E. Horowitz, Inspector General, to Karol V. Mason, Ass't Att'y Gen., Office of Justice Programs, 5 n. 7 (May 31, 2016), *available at* https://oig.justice.gov/reports/2016/1607.pdf.

adopting, enforcing or endorsing a limit on immigration enforcement includes heavy monetary fines, even for individual law enforcement officers. The severe penalties for "adopting, enforcing or endorsing" any policy that "prohibits or materially limits" the enforcement of immigration laws, in combination with broad, undefined authority to "assist" in federal immigration enforcement, forces local officers and their supervisors to enforce federal immigration law in order to avoid liability for violating SB 4 and the ensuing harsh punishment.

SB 4 "Adopt, Enforce or Endorse" Provisions

41. In a section titled "Policies and Actions Regarding Immigration Enforcement," SB 4, Section 752.053(a), provides:

> [A] local entity or campus police department may not: (1) adopt, enforce, or endorse a policy under which the entity or department prohibits or materially limits the enforcement of immigration laws; (2) as demonstrated by pattern or practice, prohibit or materially limit the enforcement of immigration laws; or (3) for an entity that is a law enforcement agency or for a department, as demonstrated by pattern or practice, intentionally violate Article 2.251, Code of Criminal Procedure.

42. SB 4's "Definitions" section 752.051 defines "immigration laws" to mean "the laws of this state or federal law relating to aliens, immigrants, or immigration" and includes SB 4 itself.

43. SB 4 defines "local entity" as "the governing body of a municipality, county, or special district or authority," and "an officer or employee of or a division, department, or other body that is part of a municipality, county, or special district or authority, including a sheriff, municipal police department, municipal attorney, or county attorney; and district attorney or criminal district attorney. . . ." Section 752.052(5). Because "special districts" in Texas include community college districts, SB 4 reaches the conduct of community college trustees as well as

community college administrators and professors.

44. SB 4 further sweeps in campus police departments, which are defined as "law enforcement agenc[ies] of an institution of higher education." Section 752.051(1).

45. SB 4 provides that "a local entity or campus police department" may not "prohibit or materially limit" an employee such as a police officer, corrections officer, booking clerk, magistrate, or prosecuting attorney from inquiring into the immigration status of a person "under lawful detention," exchanging the information with other governmental agencies, or maintaining the information. Section 752.053(b).

46. SB 4 defines "lawful detention" as "the detention of an individual by a local entity, state criminal justice agency, or campus police department for the investigation of a criminal offense." Section 752.051(4). As a result, SB 4 prohibits local governments and campus police departments from prohibiting their officers and other employees from conducting immigration questioning of individuals stopped for minor offenses such as jaywalking, driving with a broken tail-light, or allowing a 17-year-old to ride in the bed of a pickup truck.

47. Although SB 4 purports to exempt immigration questioning of individuals who are crime victims or witnesses, or who are reporting a criminal offense, SB 4 does not allow local governments and campus police departments to prohibit their officers and other employees from conducting immigration questioning of these victims or witnesses if "the officer determines that the inquiry is necessary to . . . investigate the offense[.]" Sections 752.051(4) & 752.057(1).

48. SB 4 provides that "a local entity or campus police department" may not "prohibit or materially limit" its employees from "assisting or cooperating with a federal immigration officer as reasonable or necessary, including providing enforcement assistance[.]" *Id.*

49. SB 4 also provides that "a local entity or campus police department" may not

"prohibit or materially limit" those same employees from "permitting a federal immigration officer to enter and conduct enforcement activities at a jail to enforce federal immigration laws." *Id.*

50. SB 4 creates a system under which local governments and campus police departments are unable to guide, supervise or impose limits on immigration questioning and enforcement by their police officers and employees. As a result, police officers and employees, untrained and unsupervised, are free to conduct immigration enforcement activities at their own discretion and pursuant to their own understanding of the law. If they do not conduct these enforcement activities, they face individual liability for adopting, enforcing or endorsing a policy that materially limits immigration enforcement.

51. SB 4 prohibits local governments and campus police departments from limiting their police officers and employees from, and permits those same employees to engage in, "providing enforcement assistance" to federal immigration officers even where federal policy prohibits immigration enforcement activities, such as in sensitive locations like schools and churches.

52. SB 4 also prohibits local governments and campus police departments from limiting their police officers and employees from, and permits those same employees to engage in, "providing enforcement assistance" to federal immigration officers even where federal law would require a warrant to detain a non-citizen.

53. SB 4 prohibits local governments and campus police departments from limiting their police officers and employees from, and permits those same employees to engage in, "providing enforcement assistance" to federal immigration officers outside the requirements of a 287(g) agreement under which local law enforcement officers are trained and supervised by the

federal government.

54. SB 4's system, under which local police and other employees conduct their own immigration status inquiries and provide "enforcement assistance," will expose local governments and campus police departments to liability under the Fourth Amendment and will lead to violation of the rights of Texas residents.

55. SB 4 also fails to warn sufficiently local governments and campus police departments as to what specific conduct is unlawful. The undefined phrase "adopt, enforce, or endorse a policy under which the entity or department prohibits or materially limits the enforcement of immigration laws" is so vague and overbroad that it does not provide local entities and campus police with enough information to understand what policies they are not allowed to adopt, endorse, or enforce.

56. The phrase "assisting or cooperating with a federal immigration officer" is likewise too vague to give local governments and campus police departments enough information to know what they can and cannot prohibit their officers and employees from doing.

57. SB 4 prohibits local governments and campus police departments from adopting policies that protect public safety by encouraging residents to report crime without fear that interaction with local officers will result in immigration questioning and detention.

58. Under SB 4, untrained and unsupervised local police officers and other employees of local governments and campus police departments disproportionately question and detain foreign-born and Latino individuals, especially those that do not have a Texas driver's license.

59. SB 4 prevents elected officials such as city council members, county commissioners, and community college trustees from debating changes in their local governments' approach to immigration enforcement and drastically limits political speech with

the threat of lawsuits, substantial fines, and removal from office.

60. SB 4 further prevents local employees, including chiefs of police, from recommending changes in their local governments' approach to immigration enforcement and drastically limits their speech with the threat of lawsuits, substantial fines, and damage to their reputations and future employment opportunities.

SB 4 Detainer Provisions

61. SB 4 defines an immigration detainer request as a "federal government request to a local entity to maintain temporary custody of an alien, including a United States Department of Homeland Security Form I-247 document or a similar or successor form." Section 772.0073.

62. SB 4's definition of an "immigration detainer request" sweeps in less formal requests, including oral or written requests that fall short of a DHS Form I-247.

63. SB 4 requires "a law enforcement agency that has custody of a person subject to an immigration detainer request issued by United States Immigration and Customs Enforcement [to] (1) comply with, honor, and fulfill any request made in the detainer request provided by the federal government[.]" Art. 2.251(a).

64. SB 4 removes a local government's discretion to decline cooperation with an ICE detainer because of concerns that continued local detention of the individual would create potential Fourth Amendment liability, such as after the individual has posted bond, filed a habeas petition, or where criminal charges have been dropped.

65. SB 4 grants local police greater power to conduct immigration-related warrantless arrests than what is granted to federal officers by Congress under 8 U.S.C. § 1357(a)(2). ICE officers may make warrantless arrests only when there is reason to believe that the individual is (1) not lawfully present, and (2) likely to evade detention by immigration officers before a

warrant can be obtained. SB 4, on the other hand, compels warrantless arrests, via mandatory enforcement of immigration detainers, without any requirement that the detaining officer have reason to believe that the detainee is unlawfully present and likely to evade detention by immigration officers.

66. SB 4 further requires employees of local law enforcement agencies to review immigration documents and make immigration determinations in order to decide whether to continue to hold an individual pursuant to an ICE detainer. Art. 2.251(b) ("A law enforcement agency is not required to perform a duty imposed by Subsection (a) with respect to a person who has provided proof that the person is a citizen of the United States or that the person has a lawful immigration status in the United States, such as a Texas driver's license or similar government-issued identification.").

67. SB 4 does not define "lawful immigration status." Furthermore, SB 4 does not explain what types of "similar government-issued identification" suffice to prove "lawful immigration status."

SB 4 Penalty Provisions

68. In his signing statement, Defendant Abbott emphasized the heavy penalties on local officials for violating SB 4: "Now this law imposes penalties up to $25,000 per day and it can lead to jail time and removal from office for any official who refuses to comply[.]"

69. The penalty for violating Section 752.053 is between $1,000 and $1,500 for the first violation, and between $25,000 and $25,500 for each subsequent violation. Section 752.056.

70. SB 4 creates "a misdemeanor involving official misconduct," punishable by up to a year in jail, for any "sheriff, chief of police, constable or person who has primary authority for administering a jail to knowingly fail to comply with an ICE detainer request issued concerning a

person in his or her custody[.]" Section 5.01, Section 87.031, Sec. 39.07

71. For elected officials, failure to comply with Section 752.053 could additionally result in the extraordinary penalty of removal from "elective or appointive office of a political subdivision" of the State of Texas. Section 752.0565.

72. SB 4 provides that "citizens" may file sworn complaints with the Attorney General, Defendant KEN PAXTON, alleging that a local jurisdiction or campus police department is violating Section 752.053. The Attorney General may then sue the jurisdiction for injunctive relief to force compliance.

73. SB 4 further authorizes the Attorney General to bring suit against a public officer to whom SB 4 applies and, if the officer is convicted, the officer will be removed from office. Section 752.0565.

C. Legislative History of SB 4

74. The enactment of SB 4 was motivated by the purpose and intent to discriminate against Latinos.

75. The bill known as SB 4 was filed in the Texas Legislature by Senator Charles Perry on November 15, 2016. SB 4 was introduced in the Senate on January 24, 2017 and referred by the Lieutenant Governor to the Senate State Affairs Committee that same day.

76. On January 31, 2017, during his State of the State address to both chambers of the Texas Legislature, Defendant GREG ABBOTT declared that passing so-called "anti-sanctuary city" legislation was one of four emergency items, thus ensuring quicker passage when compared to non-emergency bills. Defendant GREG ABBOTT stated: "To protect Texans from deadly danger, we must insist that laws be followed."

77. Prior to SB 4's filing, Defendant GREG ABBOTT claimed that public safety was

threatened by Texas counties exercising discretion in deciding when to comply with requests by U.S. Immigration and Customs Enforcement to detain individuals in local jails. In an October 26, 2015 letter to Dallas County Sheriff Lupe Valdez, who had earlier announced that she would honor ICE detainer requests on a case-by-case basis, Defendant GREG ABBOTT warned that her policy would fail to "keep dangerous criminals off the streets" and "leaves the State no choice but to take whatever actions are necessary to protect our fellow Texans."

78. In January 2017, Defendant GREG ABBOTT wrote to Travis County Sheriff Sally Hernandez, who had adopted a similar policy of exercising discretion in deciding which ICE detainer requests to follow, that "individuals subject to ICE detainers pose grave threats to public safety." He further stated that the Travis County policy "is a dangerous game of political Russian roulette – with the lives of Texans at stake." In February 2017, Defendant GREG ABBOTT cut approximately $1.5 million in state grant funds to Travis County because of its detainer policy. The grant funds were used to support programs related to family violence, veterans' court, juvenile court, and programs in other areas of the criminal justice system.

79. The sponsor of SB 4, Senator Perry, claimed that the bill was intended to address "criminal aliens that have committed heinous crimes."

80. SB 4 was heard in the Senate State Affairs Committee on February 2, 2017. Fewer than 10 people registered in support of the bill and over 1,000 people registered in opposition to the bill. During the 16-hour Senate Committee hearing, 332 people testified against the bill.

81. At the beginning of the hearing, Senator Joan Huffman, chair of the Senate State Affairs Committee, assured the public that written testimony would be considered by the Committee. However, at the end of the hearing, the Committee swiftly passed SB 4, without

reviewing the written testimony of 97 witnesses submitted that day.

82. Witnesses at the Senate hearing pointed out that SB 4 reached well beyond ICE detainers and authorized local police officers to question suspected undocumented immigrants in a variety of settings, as well as to enforce federal immigration law.

83. Nevertheless, on February 7, 2017, during the Senate floor debate on SB 4, Senator Perry continued to claim that "my bill does not impact those that are here illegal, undocumented that are providing work and food for their family as long as they don't commit a crime that they're hauled in where a detainer request occurs. That's all it applies to is the guys that break the law."

84. A second justification for SB 4 offered by Senator Perry is that the bill was necessary to enforce federal immigration law. In his closing remarks on SB 4, Senator Perry explained: "There's three institutions created: basically marriage, government and church. Those are the three institutions that we answer to in scripture. Specifically though, government's role is to protect good and punish evil. It's to provide a basis for social stability, social order, so that we as a nation can have a viable, vibrant place to discuss gospel and other religions for that matter in this country." Senator Perry continued: "[The Book of] Judges is very clear: When the people asked for a king, he said you won't like this. And if you want to get to the heart of what this bill is about, it's allowing kings to be made on local jurisdictions, to pick and choose how they're going to apply our civil law. That's SB 4 in a nutshell."

85. Senator Perry concluded: "All SB 4 says is that whatever the law of the day at the federal level, apply it. When we have those individuals that, here's the problem, the way I understand it, they can pretty much unilaterally say we're not going to do any detainers and be in compliance with the law at some level. But when it's picking and choosing what part of those

detainer processes you choose, you've created a de facto state immigration system. So if you really want to know the truth, those people who are doing it are probably out of compliance with federal law because they've created a state immigration system, because they've said, 'we'll do this one, but we won't do that one,' and they've prohibited what's already allowed today. SB 4 didn't create new federal law."

86. The Senate voted 20-11 to pass the bill. No minority race legislator voted for the bill. Only 3 of the 33 amendments to SB 4 offered in the Senate by Latino senators were adopted.

87. On March 15, 2017, the House State Affairs Committee heard over 10 hours of public testimony on SB 4. Over 465 people registered to testify against the bill and only seven registered in support of it.

88. Again, witnesses, including children, testified that under SB 4, local police were authorized to stop and question any individuals about their immigration status and that this would lead to detention and removal of undocumented members of the community.

89. Also at the March 15, 2017 House State Affairs Committee hearing, Rep. Geren announced that he planned to narrow the scope of SB 4's Section 752.053(b)(1) to authorize local officers to conduct immigration inquiries only when an individual had been arrested, as opposed to when an individual was lawfully detained. The following day, House State Affairs Committee Chairman Byron Cook told the Texas Tribune that, after listening to the testimony of witnesses, he thought the Committee could also narrow SB 4 to include only the provision requiring compliance with ICE detainer requests.

90. Rep. Cook stated, according to the Texas Tribune: "If you look at this on the big picture [level], all we're really needing to do, all that's really been said is that local jurisdictions need to honor federal detainer requests," noting Travis County was the only outlier. "And what

the testimony indicated once again last night is that though one sheriff deviated for a short period of time, all our law enforcement agencies across the state are in fact honoring detainer requests, as they're supposed to."

91. On April 12, 2017, when the Committee reported out SB 4, the bill language restricted immigration inquiries under 752.053(b)(1) to individuals under arrest. However, the bill was not limited to honoring ICE detainers.

92. On April 20, 2017, the House State Affairs Committee sent SB 4 to the House Calendars Committee, which passed the bill out in less than one hour. SB 4 was placed on the House Emergency Calendar and heard on the House floor on April 26, 2017.

93. When laying out the bill to the full House, SB 4's House sponsor Rep. Charlie Geren described SB 4 as having no effect on undocumented immigrants who had not committed crimes. Rep. Geren admitted on the House floor that he could not name any "sanctuary" jurisdictions, that ICE knows of no Texas jurisdiction or local official that is not cooperating with ICE detainer requests, and that the overwhelming majority of law enforcement officers who testified said that SB 4 would make Texans less safe. Rep. Geren further admitted that local police officers have no skills or training to determine immigration status.

94. Representative Anchia, speaking against SB 4, argued that if SB 4 was admittedly not necessary to ensure compliance with ICE detainers, not tailored to apply only to individuals arrested for serious crimes, and that the majority of law enforcement witnesses testified that SB 4 would not make Texans safer, that he did not know how to "connect the dots" on SB 4.

95. During the House floor debate, Rep. Matt Schaefer introduced an amendment to expand the scope of SB 4 to authorize local officers to question the immigration status of any individual in a "lawful detention," in addition to arrest. Multiple attempts to amend the "Schaefer

amendment" to exempt from immigration questioning vulnerable populations such as children, veterans, pregnant women, homeless individuals, and those in domestic violence shelters failed. The House passed the "Schaefer amendment" 84-64.

96. The House departed from procedural norms by suspending the rules to skip debate on 70 — almost half — of the 145 pre-filed amendments.

97. SB 4 passed to second reading on a 93-54 vote on April 26, 2016. The House passed SB 4 on third reading with a 94-53 vote the following day on April 27, 2016.

98. On May 3, 2017, the Senate moved to concur with the House amendments to SB 4. The next day, both chambers signed the bill and sent it to Defendant GREG ABBOTT.

99. Defendant GREG ABBOTT signed SB 4 on May 7, 2017.

100. In his signing statement, Defendant Greg Abbott described the intended targets of SB 4 as "people who have committed dangerous crimes" and "known criminals accused of violent crimes." He further described failure to comply with ICE detainers as "endangering our citizens" with "deadly consequences."

101. During the legislative process surrounding SB 4, sheriffs from Texas' largest metropolitan counties, including Bexar, Dallas, Harris, El Paso, and Travis, wrote in a series of opinion-editorials published across the state that SB 4 would "perpetuate instability by making it impossible for us to effectively direct and manage our deputies" and would "coerce local law enforcement to dedicate frequently scarce resources—such as jail-space, on-duty time of officers and local tax dollars—to a job that is supposed to be done and funded by the federal government."

102. Local law enforcement executives also expressed concern that their officers would tread into illegal conduct while trying to comply with SB 4. For example, Sheriff Salazar

of Plaintiff BEXAR COUNTY stated publicly that if SB 4 "is misapplied you could very easily cross the line into racial profiling." Likewise, Plaintiff CITY OF SAN ANTONIO Police Chief William McManus told reporters that since an officer is not prohibited from inquiring about the immigration status of a person lawfully detained, "You can be asked for jaywalking, you can be asked if you're deemed to be intoxicated in public. Any ordinance that is currently on the books that one may violate and you're stopped for, you can be asked for your immigration status."

103. Undocumented college students and their allies collected over 13,000 petition signatures against SB 4. The undocumented college student petition stated: "Texas campuses like mine are now included in anti-sanctuary, anti-immigrant Senate Bill 4, running the risk of turning my university police department into federal immigration law enforcement. Something they are not trained to do."

104. The debate and passage of SB 4 tainted the remainder of the Texas Legislative Session. On May 29, 2017, the last day of the Legislative Session, in response to chanting in the House Gallery by peaceful, mostly Latino individuals opposing SB 4, State Representative Matt Rinaldi approached Latino lawmakers on the House floor, taunting "I called ICE on all of them . . . They need to deport all these illegals."

105. When reminded by Rep. Cesar Blanco that Rep. Rinaldi comes from an immigrant background, Rep. Rinaldi responded, "The difference between those people and my family is that my family loves America." In the ensuing argument, Rep. Rinaldi threatened to "put a bullet in [the] head" of Rep. Nevarez. Media reports of Rep. Rinaldi's actions sparked additional harassment of Latino legislators by members of the public.

106. On May 31, 2017, ICE confirmed that Rep. Rinaldi indeed made a report to ICE on the last day of the legislative session.

D. Community Trust Policies in Texas

107. The estimated 1.65 million undocumented persons in Texas comprise about 6 percent of the state's total population.[4] That includes between 114,000 to 194,000 children. An estimated 834,000 Texas children live with one or more undocumented parents.[5]

108. Almost all (an estimated 89%) of the undocumented population in Texas is of Mexican or Central American origin.

109. Research, including a recent 2015 Cato Institute report, shows that immigrants are no more, and often less, likely to commit crimes than the U.S.-born population.

110. In 2006, a report by the Texas State Comptroller on the economic impact of undocumented immigration showed that undocumented individuals produced more in state revenue than they received in state services and that the absence of the undocumented population would have resulted in a loss of billions of dollars to Texas' gross state product. Since the release of the 2006 report, the Texas Legislature has not directed the Comptroller to study the economic impact of undocumented immigrants.

111. External researchers have helped to fill the void. Recent reports show consistent net economic benefits of undocumented workers in Texas; for example, a study by the Perryman Group estimated the total *net* economic benefits of undocumented workers in Texas at $663.4 billion in total expenditures and almost $290.3 billion in gross product each year. The study also estimated that undocumented immigrants create more than 3.3 million jobs when indirect and induced effects are considered.

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[4] Pew Research Center, *U.S. Unauthorized Immigration Population Estimates*, Nov. 3, 2016, https://goo.gl/HaNFh0.

[5] Capps, R., et. al. (2016). *A Profile of U.S. Children With Unauthorized Immigrant Parents*. Table A-2. Washington, DC: MPI.

112. To ensure public safety, and in recognition of both the economic value that immigrant communities bring and that they commit crimes at a lower rate, many cities and counties throughout and outside of Texas have adopted policies that limit when local police officers inquire about an individual's immigration status. These policies encourage immigrants to, among other things, cooperate with law enforcement personnel to prevent, investigate, and solve crimes. These policies also promote public health by encouraging immigrants to seek healthcare when needed, including immunizations; and the policies protect the health and welfare of U.S. citizen children whose parents are undocumented. Colleges and universities similarly have adopted community trust policies to fulfill their mission of educating local students, and to ensure campus safety.

113. Plaintiff CITY OF SAN ANTONIO has an estimated 1.49 million residents and Latinos make up approximately 64% of those residents. About 14% of San Antonio's population is foreign-born. There are an estimated 71,000 undocumented persons in Bexar County and an estimated 66,000 are of Mexican and Central American descent. An estimated 22,000 children in Bexar County live with one or more undocumented parent.

114. Plaintiff CITY OF EL PASO has a total population of 683,080 according to the U.S. Census. Over 80% of El Paso residents are Latino and approximately 24% of El Paso residents are foreign born. An estimated 66,000 people in El Paso County are undocumented and 98% of the undocumented population is from Mexico or Central America.

115. Immigrants play a significant role in the San Antonio and greater Bexar county economies. Although they comprise approximately 14.3 percent of the city's total metro labor force, immigrants make up a disproportionate number of the city's entrepreneurs and business owners (16.4%). They are also self-employed at almost double the rate of San Antonio's native-

born population (10.2% compared with 5.2%, respectively).[6] In relation to their native-born counterparts, immigrants are over represented in San Antonio's construction and food service industries.

116. As the Texas Association of Business noted in its letter to lawmakers opposing SB 4, the "rich binational commerce from which Texas benefits is key to building our workforce and remaining competitive in a global marketplace." In San Antonio, Mexican nationals substantially contribute to the economy when they come to vacation, shop, visit family, or conduct business. For example, a 2012 report by the San Antonio Hispanic Chamber of Commerce showed that visitors from Mexico generated a spending output in Bexar County of $359,303,612, which supported over 3,974 jobs and an added $215,906,290 to the county's gross domestic product. The same study showed that spending by Mexican nationals generated a spending output in El Paso County of $399,760,138.

117. SAPD has a longstanding practice of cooperating with federal law enforcement, including in the execution of federal warrants, honoring immigration detainers requests, and allowing ICE officials into the City's Central Magistrate Office where detained individuals are processed. Plaintiff WILLIAM MCMANUS cooperates with ICE but believes that the scope of that cooperation must be at the Chief's discretion consistent with local law enforcement policy, objectives, and resource constraints.

118. SAPD officers are neither trained nor adequately qualified to enforce the very complex federal immigration laws. SB 4 takes away the discretion of its police chief to utilize resources in a way that is best for the San Antonio community, and permitting San Antonio officers to assume immigration enforcement tasks without supervision is detrimental to public

[6] *Id*.

safety.

119. Under former Bexar County Sheriff Susan Pamerleau, Bexar County complied with all ICE detainer requests except where an inmate was transferred to another facility or after the 48-hour period of detainment expired. On March 23, 2016, before the Texas Senate Subcommittee on Border Security, Sheriff Pamerleau affirmed that "[Bexar County] honor[s] federal guidelines and follow[s] the law." However, the Sheriff also reiterated that Bexar County does not participate in 287(g). She testified that there is no reason to have local law enforcement deputized at the expense of local taxpayers.

120. Persons arrested in San Antonio are taken to the City of San Antonio Detention Center ("Detention Center"). The Detention Center holds between 60,000 to 100,000 detainees a year. Normally, detainees are allowed to bond out within 18 hours, or if they are not eligible to bond out, they are transferred to the Bexar County Jail. ICE officers give written immigration detainer requests to the Office of The Division Chief of the County Magistrate Court. The City holds most detainees subject to ICE detainers at the Detention Center for up to 18 hours, and then transfers those that are not picked up by ICE, with a copy of the ICE detainer attached to their file, to county jail. Due to concerns about public safety and overcrowding, the City does not hold detainees with only Class C misdemeanors under ICE detainers, but by agreement ICE may assume immediate custody of persons charged with Class C offenses.

121. Although Plaintiff SAN ANTONIO does not consider itself a "sanctuary jurisdiction," since November 2015 it has had a policy (Procedure 618.11 – Racial/Bias Profiling/Immigration Policy) to ensure unbiased policing in encounters between officers and individuals. On September 1, 2017 Plaintiff SAN ANTONIO revised Procedure 618.11 to conform with the requirements of SB 4. Procedure 618.11 now provides that that "[o]fficers will

not refer persons to Immigration and Customs Enforcement (ICE) unless the person has a federal deportation warrant[,]" and that "[n]ational origin, immigration status, ethnicity [and] race are not a basis for an arrest and officers will not base any arrest on those conditions." Further, Procedure 618.11 states that "[o]fficers will not detain and/or arrest an individual based on the fact or suspicion that they are in the United States illegally."

122. Nothing in Procedure 618 prohibits or materially limits the enforcement of immigration laws by federal immigration officers. Each day, federal immigration authorities visit the SAPD Central Magistrate Office, which processes arrests in Bexar County. Federal immigration authorities are permitted to enter the facility and visit any individual in custody. SAPD honors all federal deportation warrants and detainer requests from federal immigration authorities.

123. Former County Sheriff Pamerleau testified before the Legislature that, in order to protect public safety, San Antonio City and Bexar County police officers work to cultivate an environment where everyone, regardless of immigration status, feels comfortable interacting with police officers—whether supporting law enforcement or seeking their assistance.

124. The primary mission of law enforcement in the Plaintiff jurisdictions is to work with the community to help prevent and investigate crime. Plaintiff jurisdictions believe that the immigrant community is deterred from cooperating with police by SB 4 and that SB 4 discourages immigrants from reporting crimes and participating in health and social service programs, such as the federally-funded Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). Plaintiff jurisdictions also fear that SB 4 leads to unlawful racial profiling of its immigrant and Latino community.

125. To foster trust with San Antonio's immigrant and Spanish-speaking community,

in January 2015, Plaintiff SAN ANTONIO started the UNIDOS program. UNIDOS is a community policing initiative that focuses on the Spanish-speaking and immigrant community and that involves meetings to discuss topics such as crime prevention, immigration, and cultural differences between the United States and the home countries of various immigrant groups.

126. The SAPD program was such a success that, when Javier Salazar became Sheriff of Bexar County, he established an UNIDOS program at the county level as well. His goal was to help build trust within the community to ensure that immigrants, and people who live with and near them, felt comfortable reporting crime.

127. Plaintiff CITY OF EL PASO similarly has a policy providing that officers may not arrest an individual based solely on citizenship status.

128. SB 4 will force municipalities to expend their own limited resources such as jail-space, on-duty time of officers, and local tax dollars on immigration enforcement. Many jurisdictions, including Plaintiff jurisdictions, simply do not have the public safety resources or flexibility in their budget to task their officers with the additional responsibility of enforcing federal immigration law.

129. In a letter to the Texas Senate State Affairs Committee, Bexar County Sheriff Salazar noted, "[s]imply stated, with a strained workforce and limited manpower, we do not have the capability nor the infrastructure to house undocumented people who do not have active warrants or criminal charges." Furthermore, referencing the costs of SB 4 to Bexar County, the Sheriff stated that federal programs such as 287(g) "weigh heavily on local taxpayers and Bexar County resources." Indeed, Texas county jails incurred costs of complying with ICE detainer requests that totaled approximately $61 million in 2016. Plaintiff Bexar County had about $1.7 million in detainer costs in 2016.

130. San Antonio Police Chief McManus stated that SB 4 would not only override the City's policies, but it would also result in racial discrimination. During a press conference, Plaintiff MCMANUS said, "Anyone that's under arrest, anyone that is lawfully detained on the street will be subject to be questioned about their immigration status . . . If I stopped you on the street . . . and I talked to you, I might ask you for your papers. You have an accent, you're darker complected than I am, does that mean you're not legal? According to [SB 4], it might. It absolutely is profiling."

131. On February 2, 2017, San Antonio Police Chief McManus testified against SB 4 before the Senate State Affairs Committee, stating that:

> San Antonio is not a 'sanctuary city.' However, I have some serious concerns with [SB 4] and the impact it would have on our primary duty, which is to handle calls for service and work with the San Antonio community to improve the quality of life in their neighborhoods. . . . Our mission is to create a safe environment and reduce crime, a task that requires appropriate allocation of funding and complete discretion for police chiefs to direct their officers. I'm concerned that the bill would take away from the discretion of local police chiefs to utilize resources in a way that is best for their communities and that the addition of immigration enforcement duties would actually be detrimental to the public safety. The trust San Antonio has built up with the whole community is integral to our ability to investigate, prevent, and solve crime. Our main concern is that the bill will erode this trust, which will affect crime reporting and investigations as many, many people would be less likely to speak to the police out of fear of deportation. . . . SB 4 would detract from local law enforcement's effectiveness.

132. San Antonio Police Chief McManus also told Senators that SB 4 "usurps the authority of police chiefs to direct their departments." He said: "We simply do not have the capacity to handle immigration laws as well as enforcing the laws of the Penal Code[.]"

133. Similarly, during the House State Affairs Committee hearing on March 15, 2017, San Antonio Assistant Chief of Police Anthony Treviño testified against SB 4 stating:

> This bill will undermine the relationship that San Antonio Police Department has

> forged with communities it is protecting by creating fear within the most vulnerable segments of our population and discouraging victims of crime from communicating with law enforcement. . . . Requiring law enforcement agencies to enforce immigration law will keep officers from performing their primary duties, which is to protect residents of San Antonio which will be detrimental to the relationship between communities and police departments. I firmly believe that, as law enforcement officers, we have a fundamental responsibility to protect all people from harm, regardless of what their status is...Chief McManus and I share over 60 years of law enforcement experience and, based upon that experience and established best practices and feedback from city leadership and from the community, the Chief is best equipped to determine the policies that direct officers on how they serve the citizens of our community. . . We are concerned with any legislation that would limit the chief's authority to have a policy that bars officers from inquiring about the immigration status of individuals they come into contact with. It's evident that SB 4 will limit the ability of the San Antonio Police Department and law enforcement agencies throughout the state to effectively protect the communities that they serve by eroding the public trust between the law enforcement community and the communities that we serve.

E. Defendant Paxton's SB 4 Lawsuit Against Plaintiffs City of San Antonio and Chief McManus

134. On November 30, 2018, Defendant PAXTON filed suit in Travis County District Court against Plaintiff CITY OF SAN ANTONIO, Plaintiff WILLIAM MCMANUS, the SAPD and then-City Manager Sheryl Sculley for violations of SB 4. The SB 4 enforcement action alleges that the City of San Antonio, SAPD, Chief McManus, and City Manager Sculley violated SB 4 by: "prohibiting the enforcement of immigration laws"; "materially limiting the enforcement of immigration laws"; "prohibit[ing] SAPD officers from assisting or cooperating with ICE . . . in the enforcement of federal immigration laws"; maintaining "a de facto policy of prohibiting or materially limiting SAPD officers from complying with federal immigration laws"; and maintaining "a policy of contacting Catholic Charities . . . and contacting immigration counsel to represent [] suspected aliens [which] prohibits and materially limits the enforcement of immigration laws."

135. The SB 4 enforcement action is an application of SB 4 to Plaintiffs CITY OF

SAN ANTONIO and WILLIAM MCMANUS by Defendants STATE OF TEXAS, PAXTON AND ABBOTT (STATE DEFENDANTS). The SB 4 enforcement action seeks equitable relief to enjoin Plaintiffs CITY OF SAN ANTONIO and WILLIAM MCMANUS "from future violations of SB 4" and also requests that the court impose monetary fines on Plaintiffs CITY OF SAN ANTONIO and WILLIAM MCMANUS, including a fine against Plaintiff CITY OF SAN ANTONIO "of at least $25,500 per day, based on a continuing violation [of SB 4] from September 2, 2017, to the present day[.]"

136. On July 2, 2019, the Travis County District Court dismissed Defendant PAXTON's claims that Plaintiffs CITY OF SAN ANTONIO and WILLIAM MCMANUS (and Sheryl Sculley) materially limited immigration enforcement between September 1, 2017 and March 13, 2018 because this Court's preliminary injunction of SB 4's "materially limit" provision was in effect at that time.

137. Nevertheless, STATE DEFENDANTS continue their lawsuit and continue to apply SB 4 in an unconstitutional manner to Plaintiffs CITY OF SAN ANTONIO and WILLIAM MCMANUS by seeking to penalize Plaintiffs CITY OF SAN ANTONIO and WILLIAM MCMANUS for purportedly adopting, enforcing, and endorsing policies that prohibit or materially limit the enforcement of immigration laws in violation of SB 4.

138. As applied, SB 4 forces Plaintiffs CITY OF SAN ANTONIO and WILLIAM MCMANUS to arrest individuals solely on the basis of removability from the United States, without probable cause of criminal activity and absent a request from the federal government.

139. The SB 4 enforcement action alleges in part that SAPD and Chief McManus "prohibit[ed] the enforcement of immigration laws" in violation of SB 4 by failing to arrest witnesses based on their immigration status during a suspected human-smuggling incident in

December 2017. During the incident in December 2017, SAPD assisted and cooperated with federal immigration officials by alerting ICE Homeland Security Investigations (HSI) to the incident, asking HSI to respond to the scene, and allowing HSI Special Agent Johnson to watch and listen to interviews with witnesses at police headquarters. HSI was aware of the witnesses' location at all times and could have taken any or all of the witnesses into custody. Plaintiff WILLIAM MCMANUS chose to process the case under the state smuggling statute, Texas Penal Code, Chapter 20, § 20.05 and SAPD took into custody the driver of the tractor-trailer involved in the incident. Because they were not criminal suspects, SAPD had no authority to detain any of the 12 witnesses and thus released them.

140. In addition, SB 4, as applied, forces Plaintiffs CITY OF SAN ANTONIO and WILLIAM MCMANUS to abandon constitutional policies such as Procedure 618 of the SAPD General Manual ("Procedure 618"), which sets out SAPD policies of equal protection and non-discrimination in policing. Procedure 618 provides, for example, that immigration status alone is not probable cause for an arrest.

141. The SB 4 enforcement action alleges that Procedure 618 is a "de facto policy of prohibiting or materially limiting SAPD officers from *complying with federal immigration laws*." (emphasis added). STATE DEFENDANTS thus apply SB 4 to compel Plaintiffs CITY OF SAN ANTONIO and WILLIAM MCMANUS to permit SAPD officers carry out federal immigration duties and enforce federal immigration laws, including by arresting individuals solely on the basis of suspected immigration status.

142. Furthermore, SB 4, as applied, forces Plaintiffs CITY OF SAN ANTONIO and WILLIAM MCMANUS to refrain from contacting charitable organizations to assist witnesses to human smuggling or human trafficking which prevents Plaintiffs CITY OF SAN ANTONIO and

WILLIAM MCMANUS from ensuring public safety and protecting individuals' constitutional rights.

143. The SB 4 enforcement action alleges that the Communications Protocol developed by SAPD and HSI, which provides that Catholic Charities and RAICES can provide necessary translation services, aid, and comfort to undocumented persons who are potential witnesses to human smuggling or human trafficking, "prohibits and materially limits the enforcement of immigration laws" in violation of SB 4. Thus, STATE DEFENDANTS even go so far in their application of SB 4 as to maintain that it is illegal for Plaintiffs CITY OF SAN ANTONIO and WILLIAM MCMANUS to allow, in cooperation with federal authorities, charitable organizations to provide humanitarian assistance to human smuggling witnesses, including assistance which STATE DEFENDANTS describe as legal advice. As applied, SB 4 subjects Plaintiffs to substantial money fines, lawsuits and possible removal from office for permitting such humanitarian aid.

144. As part of his job duties, Plaintiff MCMANUS must make real time discretionary law enforcement decisions for the city. It is his duty to promote public safety in San Antonio. To do so, the police chief must make careful and informed decisions regarding the ways in which SAPD cooperates with federal authorities and must communicate those decisions to SAPD officers. As applied, SB 4 infringes on the ability of Plaintiff MCMANUS to issue discretionary orders that promote public safety, including, in the case of the December 2017 incident, to collect witness statements in furtherance of a human smuggling criminal prosecution. SB 4 infringes on Plaintiff MCMANUS's ability to issue orders that promote public safety, because STATE DEFENDANTS have applied SB 4 to require, for example, Plaintiff MCMANUS to direct his officers to arrest witnesses who are suspected of removability from the United States

and to deny humanitarian aid such as translation services that can aid in a criminal investigation. Similarly, STATE DEFENDANTS have applied SB 4 to force Plaintiff MCMANUS to rescind police policies that ensure constitutional conduct by police officers such as Procedure 618 which provides that immigration status alone is not probable cause for an arrest.

145. For similar reasons, SB 4 infringes on the ability of Plaintiff MCMANUS to provide frank advice to his supervisors and Plaintiff CITY OF SAN ANTONIO on ways to promote public safety and achieve his supervisors' law enforcement goals. To do so, sometimes Plaintiff MCMANUS may need to discuss amendments to SB 4, recommend clarifying rules of police conduct, or suggest adjustments in policies of cooperation with federal immigration authorities. SB 4 limits Plaintiff MCMANUS's speech, as well as makes accomplishment of his job duties more difficult.

146. Plaintiff MCMANUS must also communicate with the public to promote public safety. This role requires that Plaintiff MCMANUS maintain the trust of the public. Plaintiff MCMANUS must also engage with members of the public regarding their recommendations for changes in police policies. SB 4 limits Plaintiff MCMANUS's ability to have these discussions with the San Antonio community by prohibiting him, for example, from endorsing the Communications Protocol agreed upon by SAPD and HSI because STATE DEFENDANTS maintain that the Communications Protocol prohibits and materially limits immigration enforcement.

147. SB 4's "endorse" provision is not limited to speech at work and thus also limits private speech. SB 4 thus prevents Plaintiff MCMANUS from speaking as a private citizen regarding any policies that he believes would increase public safety in San Antonio but that might be interpreted by STATE DEFENDANTS as limiting enforcement of federal immigration

law, including criticizing SB 4 itself.

148. In the SB 4 enforcement action, STATE DEFENDANTS accuse Plaintiff MCMANUS of violating SB 4. The accusation that Plaintiff MCMANUS—a distinguished career law enforcement officer with over 40 years of experience—violated state law is wholly unfounded and impugns the reputation of Plaintiff MCMANUS. Plaintiff MCMANUS has a liberty and property interest in protecting his reputation as a law enforcement officer, and doing his job effectively, which he is deprived of by STATE DEFENDANTS' application of SB 4 to him.

149. As the Immigration Liaison for the City of San Antonio, Plaintiff GALLEGOS oversees several major immigrant initiatives of the City, including: 1) connecting immigrants to legal services; 2) creating a resource directory for immigrants seeking assistance; 3) developing community data on immigrants and refugees; 4) managing the San Antonio migrant resource center; and 5) sending regular newsletters on events and news involving the immigrant and refugee community. The endorse provision of SB 4 infringes on Plaintiff GALLEGOS's speech and his constitutional interest in the ability to perform the duties of his job.

150. SB 4, as applied, infringes on the ability of Plaintiff GALLEGOS to oversee San Antonio's program that funds legal services for San Antonio residents at risk of deportation. STATE DEFENDANTS maintain in their SB 4 enforcement action that facilitating "legal services to suspected felons [sic] (suspected illegal aliens)" prohibits or materially limits the enforcement of federal immigration laws. To the extent that Plaintiff GALLEGOS "endorses" the legal assistance program that he oversees, SB 4 as applied renders that speech in violation of law. Similarly, to the extent that Plaintiff GALLEGOS administers the legal assistance program, SB 4 as applied renders those acts in violation of law. Thus, SB 4 infringes on the ability of

Plaintiff GALLEGOS to perform his job and speak in furtherance of his job-related goals.

151. Plaintiff GALLEGOS must create a resource directory to assist immigrants, some of whom seek help in pursuing adjustment of status or relief from removal. Publishing resources is both a job duty, and an act of speech. SB 4 as applied renders those acts in violation of law.

152. Plaintiff GALLEGOS must also develop community data on immigrants and refugees, which includes the provision of advice to city officials on the best way to collect this data. Collecting such data also requires a level of trust with the immigrant and refugee community. Yet, under SB 4, as a city employee Plaintiff GALLEGOS is forbidden from suggesting changes to local policy related to immigration enforcement, even when such suggestions could gain trust with the immigration community or promote public safety. Thus, SB 4 undermines Plaintiff GALLEGOS's ability to do his job effectively, as well as his ability to suggest the best ways in which the city may gain trust from the immigrant community.

153. Plaintiff GALLEGOS is required to send a regular newsletter, designed to reach vulnerable immigrants, covering events and news involving the immigrant and refugee community. The newsletter is both an act of speech, and part of Plaintiff GALLEGOS's job duties. This letter often includes ways to connect immigrants with resources that could help the immigrants find legal relief from deportation. Thus, under SB 4 as applied, Plaintiff GALLEGOS violates SB 4 when he publishes the newsletter.

154. SB 4's "endorse" provision is not limited to speech at work and thus also limits private speech. SB 4 thus prevents Plaintiff GALLEGOS from speaking as a private citizen regarding any policies that he believes would improve the conditions for migrant communities in San Antonio, but that STATE DEFENDANTS, in applying SB 4 to Plaintiff CITY OF SAN ANTONIO and its officials, have declared violate SB 4, including providing access to

humanitarian assistance.

155. The threat, through application of SB 4 to Plaintiff CITY OF SAN ANTONIO and its officials, that Plaintiff GALLEGOS may be sued, fined and removed from office for violating SB 4 infringes on his free speech and ability to do his job and threatens his professional reputation. The accusation that Plaintiff GALLEGOS—an attorney and member of the State Bar of Texas—violates state law or impedes law enforcement efforts damages his reputation. Plaintiff GALLEGOS has a liberty and property interest in protecting his reputation as a law abiding attorney and effective city official, and he is deprived of this interest by application of SB 4 to him.

156. SAPD's policies related to immigration are rooted in public policy considerations, Texas law, and federal court opinions. Police departments work best when they have the trust and cooperation of their communities. When members of the community fear that they or their loved ones may be turned over to immigration officials, they may avoid contact with the police. This fear and distrust make investigating, solving, and preventing crimes more difficult for SAPD and police departments throughout Texas.

F. Rowlett Police Officers' Immigration Arrest of Maria Valladarez and Armando Simon

157. On April 23, 2019, Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON, a married couple, drove in their pickup truck to Rowlett, Texas in response to an online advertisement on Craigslist that offered a free television. Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON, who have two disabled children, planned to sell the free television for extra family income.

158. The seller who had placed the Craigslist advertisement for the free television

instructed Plaintiff ARMANDO SIMON to go to a home located at 25 Victoria Dr. in Rowlett, Texas and knock loudly when he arrived because the seller would probably be in the back office and would not be able to hear the knock on the door. Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON arrived at the house at 25 Victoria Dr. in Rowlett, Texas ("the house"), and Plaintiff VALLADAREZ knocked loudly on the door of the house and rang the doorbell. No one answered. Plaintiff SIMON also knocked on the door. Again, no one answered. Five minutes after the couple arrived at the house, Armando sent an email to the seller at the seller's email address generated by Craigslist, to inform the seller that he and his wife were outside. The couple then returned to the curb and waited outside their parked truck. There were no signs instructing them not to knock or to leave the property and no one inside the house or on the property told Plaintiff SIMON or Plaintiff VALLADAREZ to leave.

159. Shortly after Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON arrived at the house, at 11:01am, a man inside the house called 911 and reported that there was somebody at his door "again." The caller explained that the couple outside came to his house because of a Craigslist ad showing a "sale at this house." The caller told the 911 operator that the ad was fake. The caller stated that the couple outside continued to knock on the door and then were "leaning against their car."

160. At approximately the same time, a woman in a car drove out from behind the house and asked Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON what they wanted. After Plaintiff ARMANDO SIMON showed the woman the Craigslist advertisement, the woman told him to wait and returned to her car where she made a phone call on her cell phone. Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON continued to wait by the curb in the expectation that the seller of the television would arrive.

161. At around 11:07am police officers Defendants WELK and RICKMAN arrived at the house. Defendants WELK and RICKMAN, who were in full uniform, with badges showing and service weapons on their belts, approached Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON and asked what they were doing at the seller's house. In broken English, Plaintiff SIMON explained they were there because of a free television advertisement posted on Craigslist and offered to show him the email exchange with the seller. Other than commenting that most Craigslist advertisements are fake, Defendants WELK and RICKMAN did not show interest in the emails and instead immediately requested identification.

162. Plaintiff SIMON gave the officers his Mexican matricula consular and Plaintiff VALLADAREZ gave the officers her passport from Honduras. Defendants WELK and RICKMAN took the identification documents and conducted a records check with their dispatch on Plaintiff SIMON and Plaintiff VALLADAREZ.

163. Defendants WELK and RICKMAN lacked reasonable suspicion and/or probable cause to suspect that Plaintiff SIMON or Plaintiff VALLADAREZ had committed a crime. Earlier that day, Defendant WELK had gone to the house at 25 Victoria Dr. in response to a 911 call reporting that an older white male was banging on the front door. At that time, Defendant WELK had spoken to the homeowner who explained that the family was being harassed by an unknown person who had placed a false post on Craigslist advertising a sale at 25 Victoria Dr.

164. Defendants WELK and RICKMAN further confirmed through their records check that neither Plaintiff SIMON nor Plaintiff VALLADAREZ were the subjects of criminal warrants. Nevertheless, Defendants WELK and RICKMAN unlawfully detained Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON in violation of their Fourth Amendment rights. Defendants WELK and RICKMAN detained Plaintiffs MARIA VALLADAREZ and

ARMANDO SIMON based solely on their suspected immigration status, and without a request from federal immigration authorities. During this time, Defendants WELK and RICKMAN instructed Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON not to move and to remain in the couple's truck and Defendants WELK and RICKMAN kept the identification documents of Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON.

165. After more than an hour of detaining Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON based on their suspected immigration status, Defendants WELK and RICKMAN contacted ICE. Defendants WELK and RICKMAN continued to detain Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON until ICE Agent Eric Kline arrived at the house, questioned Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON, and arrested Plaintiff MARIA VALLADAREZ on a civil immigration warrant.

166. After Agent Kline drove away with Plaintiff VALLADAREZ, Defendants WELK and RICKMAN continued to detain Plaintiff ARMANDO SIMON while they questioned him about his children and their school.

167. Federal immigration authorities have placed Plaintiff MARIA VALLADAREZ under an order of supervision under which she can be removed from the United States on little to no notice.

168. Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON were not cited for any offense by Rowlett police, nor were they subsequently arrested or charged with any offense related to their actions at 25 Victoria Dr. The Craigslist advertisement to which Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON responded on April 23, 2019 was a false advertisement posted by a third party with the intent to harass the family living at 25 Victoria Dr. for reasons completely unrelated to Plaintiffs MARIA VALLADAREZ and ARMANDO

SIMON.

169. Defendant CITY OF ROWLETT does not have an agreement with federal immigration authorities pursuant to 8 U.S.C. § 1357(g) (also known as a "287(g) agreement").

170. At all times relevant herein, Defendant CITY OF ROWLETT and Defendant BRODNAX maintained an official policy and/or custom to question, detain and arrest individuals without probable cause of criminal activity, and without a criminal warrant, solely on the basis of suspected or actual immigration status and without a request from federal immigration officials.

171. At all times relevant herein, the official policy and/or custom of Defendant CITY OF ROWLETT and Defendant BRODNAX to question, detain and arrest individuals without probable cause of criminal activity, and without a criminal warrant, solely on the basis of suspected or actual immigration status and without a request from federal immigration officials was also maintained pursuant to SB 4.

172. At all times relevant herein, Defendants WELK and RICKMAN acted under color of law and pursuant to SB 4 and an official policy and/or custom of Defendant CITY OF ROWLETT and Defendant BRODNAX to question, detain and arrest individuals without probable cause of criminal activity, and without a criminal warrant, solely on the basis of suspected or actual immigration status and without a request from federal immigration officials.

173. The claims against Defendants CITY OF ROWLETT, WILLIAM M. BRODNAX, OFFICER JASON WELK, and OFFICER BRANDON RICKMAN are brought only by Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON.

V. PLAINTIFFS FACE IMMINENT HARM UNDER SB 4

174. Plaintiffs face imminent harm under SB 4, including, but not limited to: draining

of limited public resources; the restriction of protected speech; the threat of hefty fines; the threat of removal from office; the threat of liability for constitutional violations; and the threat of racial profiling for members of WDP, LUPE, and TACHE. Unless enjoined by this Court, the civil and criminal provisions of SB 4 will impermissibly burden the constitutional rights of Plaintiffs.

175. Under SB 4, members of plaintiffs LUPE and WDP can be stopped, detained, arrested, questioned, and transferred to custody of federal immigration agents by local law enforcement officers. Undocumented individuals will be deterred from seeking legal help from and participating in advocacy efforts with LUPE and WDP because of SB 4. Under SB 4, LUPE and WDP members' constitutional rights will be violated due to mandatory enforcement of immigration detainers, being unlawfully detained and questioned about their immigration status, and being racially profiled because of their Latino heritage.

176. Plaintiffs LUPE and WDP members would otherwise have standing to sue, the interest they seek to protect are germane to their organization's purpose, and neither the claims asserted nor the relief requested require the participation of the individual members in this lawsuit.

177. Plaintiff TACHE's members face civil fines, injunctions and removal from office under SB 4. TACHE members who are faculty and staff at community colleges are prohibited from speaking out against or being critical of SB 4 and of federal immigration enforcement policies. A central tenet of higher education is the ability for students, staff, and faculty to engage in analysis and critique of current affairs. The vague, sweeping provisions of SB 4 that prohibit "endorsing" policies that "prohibit or materially limit the enforcement of immigration laws" deters TACHE members from exercising their First Amendment rights and from doing work that is crucial to their roles as educators and administrators, including engaging their

students in discussions about immigration policies. In addition, TACHE's undocumented members are deterred from attending classes and campus events because of fear of being questioned by campus police about their immigration status. TACHE members also are subject to racial profiling and unlawful detentions because of their Latino heritage. TACHE members who are elected trustees of community colleges face removal from office for violating SB 4 if they "adopt, enforce or endorse" a prohibited policy. Plaintiff TACHE has associational standing to sue on behalf of its members because its members would otherwise have standing to sue, the interests TACHE seeks to protect are germane to its organization's purpose, and neither the claims asserted nor the relief requested require the participation of the individual members in this lawsuit.

178. Plaintiffs CITY OF SAN ANTONIO, BEXAR COUNTY, and CITY OF EL PASO fear substantial civil penalties and costs associated with implementing SB 4. These jurisdictions face mandamus and injunction for violating SB 4 and face liability for violating the Constitutional rights of their residents and non-residents.

VI. CAUSES OF ACTION

FIRST CAUSE OF ACTION

SUPREMACY CLAUSE OF THE U.S. CONSTITUTION

179. Plaintiffs incorporate all of the allegations contained in the previous paragraphs of this complaint as though fully set forth here.

180. SB 4 violates the Supremacy Clause because it regulates matters that are exclusively reserved to the federal government, because it operates in a field over which Congress has exercised exclusive authority and because it conflicts and interferes with the implementation and enforcement of federal laws and regulations.

181. The custom and/or policy maintained by Defendants CITY OF ROWLETT, WILLIAM M. BRODNAX, OFFICER JASON WELK and OFFICER BRANDON RICKMAN of detaining individuals based on their real or perceived immigration status violates the Supremacy Clause because it regulates matters that are exclusively reserved to the federal government, operates in a field over which Congress has exercised exclusive authority and conflicts and interferes with the implementation and enforcement of federal laws and regulations.

SECOND CAUSE OF ACTION

FREEDOM OF SPEECH CLAUSE OF THE 1ST AND 14TH AMENDMENTS TO THE U.S. CONSTITUTION

182. Plaintiffs incorporate all of the allegations contained in the previous paragraphs of this complaint as though fully set forth here.

183. SB 4 is a content-based, viewpoint restriction because it only outlaws speech that is critical of SB 4 and federal immigration enforcement.

184. SB 4 is unduly vague because it reaches and purports to prohibit speech that is protected by the Freedom of Speech Clause of the First Amendment.

185. Section 752.0565 purports to remove from elective or appointive office individuals who "endorse a policy that materially limits the enforcement of immigration laws." This provision drastically limits political speech and its content in violation of the First Amendment.

186. The term "endorse" is unduly vague in that it reaches protected speech, and it is a viewpoint restriction that only prohibits a certain kind of speech.

187. SB 4 is also void for vagueness because its provisions fail to give Plaintiffs notice of what exact conduct is unlawful.

188. SB 4 violates the First Amendment as applied to the States through the Fourteenth Amendment to the U.S. Constitution.

THIRD CAUSE OF ACTION

ACADEMIC FREEDOM RIGHTS OF THE 1st AND 14TH AMENDMENTS TO THE U.S. CONSTITUTION

189. Plaintiffs incorporate all of the allegations contained in the previous paragraphs of this complaint as though fully set forth here.

190. The First Amendment to the U.S. Constitution prohibits Defendants from abridging the academic freedom of Plaintiff TACHE's members. TACHE asserts this right on behalf of its members.

191. SB 4 abridges academic freedom in that it restricts the ability to control who teaches, what subjects are taught, and how those subjects are taught at Texas institutions of higher education. Accordingly, SB 4 violates the First Amendment as applied to the States through the Fourteenth Amendment to the U.S. Constitution.

FOURTH CAUSE OF ACTION

4TH AND 14TH AMENDMENTS TO THE U.S. CONSTITUTION

192. Plaintiffs incorporate all of the allegations contained in the previous paragraphs of this complaint as though fully set forth here.

193. The Fourth Amendment provides "[t]he right of people to be secure in their persons" and protects against "unreasonable searches and seizures" without a warrant and without probable cause. U.S. CONST. amend. IV.

194. SB 4 removes local jurisdictions' ability to adopt policies that limit immigration questioning and detention of individuals in order to ensure compliance with the Fourth

Amendment. SB 4 removes local jurisdictions' discretion to decide how to respond to requests from federal immigration authorities in order to ensure compliance with the Fourth Amendment. SB 4's prohibition of policies intended to comply with the Fourth Amendment forces the jurisdictions to violate constitutional rights of individuals.

195. SB 4 further compels compliance with all ICE detainers and removes local jurisdictions' discretion to decide when to comply with detainers in order to ensure compliance with the Fourth Amendment. SB 4's requirement that local jurisdictions comply with all ICE detainers, no matter the circumstances, forces the jurisdictions to violate constitutional rights of individuals.

196. Pursuant to the Fourth and Fourteenth Amendments to the U.S. Constitution, Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON have the right to be free from unlawful arrest or detention by local law enforcement officials.

197. Defendants OFFICER JASON WELK and OFFICER BRANDON RICKMAN arrested and detained Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON without probable cause or lawful justification.

198. Defendants OFFICER JASON WELK and OFFICER BRANDON RICKMAN were acting under color of state law during the time period relevant to this claim.

199. Defendants OFFICER JASON WELK and OFFICER BRANDON RICKMAN acted in reckless disregard of Plaintiffs MARIA VALLADAREZ's and ARMANDO SIMON's well-established rights under the Fourth and Fourteenth Amendments to the United States Constitution.

200. As a result of the unlawful arrest by Defendants OFFICER JASON WELK and OFFICER BRANDON RICKMAN, Plaintiffs MARIA VALLADAREZ and ARMANDO

SIMON suffered physical, mental and economic harm.

201. The policy, procedure, practice, or custom of Defendant CITY OF ROWLETT, of detaining individuals based on their real or perceived immigration status, violates the Fourth Amendment. Even if Defendant CITY OF ROWLETT's practice of detaining individuals based on their real or perceived immigration status was not authorized by an officially adopted policy, the practice may be so common and well-settled that it fairly represents official policy.

202. In the present case, the City's formal and informal actions in permitting its officers to detain individuals based on their real or perceived immigration status reflect a policy, practice, custom and procedure authorizing and allowing officers to violate the rights of Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON. Consequently, Defendant CITY OF ROWLETT is liable for harm caused to others, such as Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON, as a result of its policies, practices customs and procedures.

203. At the time Defendants OFFICER JASON WELK and OFFICER BRANDON RICKMAN violated the constitutional rights of Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON, the officers were acting pursuant to an official city policy, practice, custom and procedure of detaining individuals based on their real or perceived immigration status. *Monell v. New York City Dept. of Social Servs*., 436 U.S. 658, 659 (1978).

204. Thus, Defendant CITY OF ROWLETT's policy, practice, custom or procedure was a direct cause of Plaintiffs MARIA VALLADAREZ's and ARMANDO SIMON's injuries. In particular, the City's policy of detaining individuals based on their real or perceived immigration status caused Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON to be deprived of their constitutional rights to be free from unlawful seizures under the Fourth and Fourteenth Amendments.

FIFTH CAUSE OF ACTION

PROCEDURAL DUE PROCESS CLAUSE OF THE 14TH AMENDMENT TO THE U.S. CONSTITUTION

205. Plaintiffs incorporate all of the allegations contained in the previous paragraphs of this complaint as though fully set forth here.

206. The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (citing *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)). The "right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardships of a criminal conviction, is a principle basic to our society." *Joint Anti-Fascist Comm. v. McGrath*, 341 U.S. 123, 168 (1951) (Frankfurter, J., concurring).

207. SB 4 forces local entities to deprive individuals of their liberty and property interests without the constitutionally required procedural due process of law, in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

208. SB 4 deprives "local entities" (which include local officials and employees) of their liberty and property interests without the constitutionally required procedural due process of law, in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

209. In the SB 4 enforcement action, Defendant PAXTON requests imposition of civil fines against Plaintiff CITY OF SAN ANTONIO in an amount that has already exceeded $21,216,000 and continues to increase every day. SB 4 imposes excessive civil fines on "local entities" (which include local officials and employees) in violation of the Excessive Fines Clause of the Eighth Amendment as incorporated by the Fourteenth Amendment's Due Process Clause.

210. SB 4 is also void for vagueness because its provisions fail to give Plaintiffs notice of what exact conduct is unlawful.

SIXTH CAUSE OF ACTION

SUBSTANTIVE DUE PROCESS CLAUSE OF THE 14TH AMENDMENT TO THE U.S. CONSTITUTION

211. Plaintiffs incorporate all of the allegations contained in the previous paragraphs of this complaint as though fully set forth here.

212. The Due Process Clause guarantees the right to justice applied consistently by police officers. SB 4 violates the due process clause because it grants total discretion to individual officers and prohibits any attempt to guide or control those officers.

213. SB 4 violates the Due Process Clause because it takes away local jurisdictions' discretion to decide when to comply with ICE detainers in order to ensure compliance with the Due Process Clause of the Fourteenth Amendment. This withdrawal of discretion requires local jurisdictions to honor detainer requests even when they conclude that doing so would violate the U.S. Constitution.

214. SB 4 is also void for vagueness because its provisions fail to give Plaintiffs notice of what exact conduct is unlawful.

215. SB 4 forces local jurisdictions to deprive individuals of their liberty and property interests without the constitutionally required substantive due process of law in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

SEVENTH CAUSE OF ACTION

EQUAL PROTECTION CLAUSE OF THE 14TH AMENDMENT TO THE U.S. CONSTITUTION

216. Plaintiffs incorporate all of the allegations contained in the previous paragraphs of

this complaint as though fully set forth here.

217. The Fourteenth Amendment provides that no state shall deny to any person within its jurisdiction "the equal protection of the laws."

218. SB 4 was enacted with the purpose of discriminating against Latinos and against immigrants.

219. State-compelled enforcement of federal immigration laws is not a compelling interest that justifies race-based discrimination. SB 4 is not narrowly tailored, and SB 4 is not the least restrictive means of achieving the requisite government interest.

220. There is also no rational basis for excluding the issue of immigration enforcement from any control or guidance by police chiefs, sheriffs, and other local leaders.

221. SB 4 requires local jurisdictions to single out Latinos and immigrants, including those with lawful permanent residence, and imposes a broad and undifferentiated disability on immigrants alone to seek and obtain preventive local guidance, policy, and protection from unlawful and arbitrary enforcement of laws. SB 4 prohibits all legislative, executive, or judicial action at any level of local government designed to protect or even guide individual police officers in enforcing laws affecting immigrants.

222. SB 4 requires local jurisdictions to deprive individuals of equal protection of the laws in violation of the Equal Protection Clause of the Fourteenth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following relief:

i. A declaratory judgment that SB 4, in its entirety, is unconstitutional;

ii. An injunction prohibiting Defendants and their officials, employees, and agents from implementing or enforcing SB 4;

iii. An order awarding Plaintiffs costs and attorney's fees, under the statutes cited herein, 42 U.S.C. § 1988, and any other applicable law;

iv. With respect to claims brought by Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON against Defendants CITY OF ROWLETT, WILLIAM M. BRODNAX, OFFICER JASON WELK and OFFICER BRANDON RICKMAN, a declaratory judgment that the custom and/or policy of detaining individuals based on their real or perceived immigration status maintained by Defendants CITY OF ROWLETT, WILLIAM M. BRODNAX, OFFICER JASON WELK and OFFICER BRANDON RICKMAN is unconstitutional;

v. With respect to claims brought by Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON against Defendants CITY OF ROWLETT, WILLIAM M. BRODNAX, OFFICER JASON WELK and OFFICER BRANDON RICKMAN, an injunction prohibiting Defendants CITY OF ROWLETT, WILLIAM M. BRODNAX, OFFICER JASON WELK and OFFICER BRANDON RICKMAN, and their officials, employees, and agents, from implementing or enforcing their custom and/or policy of detaining individuals based on their real or perceived immigration status;

vi. With respect to claims brought by Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON against Defendants CITY OF ROWLETT, WILLIAM M. BRODNAX, OFFICER JASON WELK and OFFICER BRANDON RICKMAN, compensatory damages for bodily injury, humiliation, pain and suffering, emotional distress, mental anguish and/or related emotional damages that Plaintiffs have incurred or will incur in the future as a result of Defendants' actions;

vii. With respect to claims brought by Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON against Defendants CITY OF ROWLETT, WILLIAM M. BRODNAX,

OFFICER JASON WELK and OFFICER BRANDON RICKMAN, compensatory damages for lost wages, legal costs, medical bills, and/or other expenses Plaintiffs have incurred or will incur in the future as a result of Defendants' actions;

viii. With respect to claims brought by Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON against Defendants CITY OF ROWLETT, WILLIAM M. BRODNAX, OFFICER JASON WELK and OFFICER BRANDON RICKMAN, compensatory damages for the value of the federal constitutional rights denied to Plaintiffs;

ix. With respect to claims brought by Plaintiffs MARIA VALLADAREZ and ARMANDO SIMON against Defendants CITY OF ROWLETT, WILLIAM M. BRODNAX, OFFICER JASON WELK and OFFICER BRANDON RICKMAN, punitive damages as to OFFICER JASON WELK and OFFICER BRANDON RICKMAN;

x. Such other and further relief as this Court deems just and proper.

Dated: December 13, 2019

Respectfully submitted,

MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND

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