

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

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

*Plaintiffs,* :

v. :

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

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

*Defendants.* :

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**DECLARATION OF VANITA GUPTA**

I, Vanita Gupta, hereby declare:

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

1. I am currently the President and CEO of the Leadership Conference on Civil and Human Rights.
2. Between October 2014 and January 2017, I served as the Principal Deputy Assistant Attorney General and head of the Civil Rights Division at the United States Department of Justice.
3. During my tenure at the Department of Justice, I worked extensively and collaboratively with city officials and law enforcement across all ranks – from mayors to police chiefs to command staff to line officers to police unions – to build community-police trust across

the country. Through enforcement, public education, and joint initiatives, I oversaw efforts aimed at advancing best and constitutional police practices, protecting officer safety, ensuring public safety, and promoting community engagement with law enforcement. This work was a top priority not only for me but for the Attorney General, who also devoted extensive time to these issues.

4. Under my supervision, the Civil Rights Division investigated and/or negotiated agreements with police departments in cities like Ferguson, Cleveland, Baltimore, and Chicago, to address problems of use of excessive force, unlawful arrests, and discriminatory policing. I have extensive experience working with law enforcement agencies to develop and maintain constitutional policing practices and improve community relations.
5. I have read and reviewed Texas Senate Bill 4 (“SB 4”).
6. Based on my expertise and experience, SB 4 will negatively impact the ability of police to engage in effective community policing and traditional law enforcement functions. It will harm public safety. It will result in increased racial profiling by police, and it will result in other constitutional violations, such as unlawful stops and prolonged detentions.
7. Immigration enforcement is a function of federal law. Immigration law is a complex field and requires special training to administer. Absent specialized training, law enforcement may not be capable of accurately determining immigration status. Even then, it will require dedication of considerable resources – both money and time – to make the inquiries and determinations required by SB 4. This will necessarily impact the ability of police to engage in other activities.

8. Law enforcement involvement in immigration enforcement decreases community trust, particularly in localities with sizeable populations of immigrant or minority populations. SB 4 makes it difficult, if not impossible, for local police to develop and maintain this trust, because it removes their ability to choose when and how to engage in immigration enforcement actions. For communities to cooperate with police, they need to have faith that their local departments have their best interests in mind. Many law enforcement agencies foster that faith by regulating participation in immigration enforcement, by, for instance, limiting inquiries about immigration status, coordination with federal officials, and compliance with detainers. Under SB 4, law enforcement will no longer be able to instill this trust in communities where a significant number of non-citizens reside.
9. For example, if the community believes that police will inquire into their immigration status or honor even erroneous detainer requests, they will come to see their police as immigration agents and not as a police force that is entrusted to ensure the community's public safety needs. This will foster distrust that is antithetical to effective policing. As a result, some communities will be effectively deprived of full police services and protection. This is dangerous as community-police trust is a cornerstone of public safety. This is precisely why almost all major city chiefs in Texas publicly opposed passage of SB 4.
10. Moreover, removing the ability and discretion of local law enforcement leaders to limit when and under which circumstances their officers may inquire into immigration status will create the risk of racial profiling. Without proper training, supervision, or resources, police will rely on racial proxies for immigration status and screen minorities and those

who “look” foreign. This will create disparities in police treatment of the community. The appearance of racial bias will further erode community relations.

11. Finally, police involvement in immigration enforcement will result in increased constitutional violations. Fourth Amendment violations will result from SB 4’s detention provision, which generally does not allow police to deny any detainer request, even if the request lacks probable cause. Fourth Amendment violations will similarly result from investigations of immigration status in the course of a detention or arrest, which SB 4 precludes police chiefs and sheriffs from reasonably limiting. While SB 4 provides that the State of Texas will bear costs of a legal defense related to the detainer provision, it will not bear the costs or otherwise indemnify localities for other Fourth Amendment or equal protection violations.

12. For a law enforcement agency to function effectively and respect constitutional limits, those in charge of the agency must exercise responsible oversight over the actions of line officers. In my experience, patterns of Fourth Amendment and equal protection violations are most common where supervisors fail to provide leadership and oversight for the officers who interact with the community on a daily basis. I am very concerned that SB 4 will disable that oversight and prevent agency chiefs and supervisors from acting when they encounter patterns and practices in their agencies that give rise to constitutional concerns.

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

Executed June 4<sup>th</sup> 2017 in Washington, D.C..

  
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Vanita Gupta