

SECURE & SOVEREIGN TEXAS

THE TEXAS LAW ENFORCEMENT TOOLBOX:

Strategies for Policing Illegal Immigration
and Related Crime Beyond the Border

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September 2024



TABLE OF CONTENTS

Executive Summary	Page 3
Challenges to Policing Illegal Aliens in Texas	Page 4
Illegal Immigration – A Brief Synopsis	Page 5
Broken Windows	Page 5
Quality of Life & Crime – Public Lands	Page 6
Quality of Life & Crime – Private Lands	Page 6
Illegal Immigration – Criminal Justice Issues	Page 6
Crime in the News	Page 6
The Drug Crisis	Page 7
Inaccurate Crime Data	Page 7
Police Staffing and Response to Crime	Page 8
The Challenges of Sanctuary Cities	Page 8
Fighting Illegal Immigration – An Overview of Initiatives by State Governments	Page 9
Arizona – SB 1070	Page 9
Florida – SB 1718	Page 9
Iowa – SF 2340	Page 9
Oklahoma – HB 4156	Page 10
Texas – SB 4	Page 10
Tackling the Problems Head On	Page 10
Duties of Peace Officers / Dereliction of Duty under the Code of Criminal Procedure	Page 10
Consular Notification Requirements and Allowances – A Federal Tool for Local Officers	Page 11
Training Peace Officers	Page 12
Racial Profiling Under Texas Law	Page 12
Failure to Identify Under Texas Law	Page 12
The Tools of Reasonable Suspicion, Detention, and Probable Cause	Page 12
287(g) Program	Page 14
Recommendations	Page 15
Conclusion	Page 16
References	Page 17

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KEY POINTS

- **Many challenges exist** when policing illegal aliens in Texas communities including lack of accurate biometric data and language barriers.
- **Quality of life** for all Texans is negatively impacted when law enforcement cannot police and remove criminal aliens from Texas communities.
- **Based on the discrepancies** and lack in reporting about crimes, law enforcement severely struggles to record an accurate number of offenses committed by illegal aliens. Accuracy in both crime data and personal identifiers would certainly make crime statistics more accurate and the job of identifying suspects easier.
- **The number of illegal aliens** in most metropolitan areas is unknown, making it impossible to allocate resources efficiently, particularly when the population estimates are unknown or skewed.
- **Even without state legislation** giving broader power to peace officers, there is already legal authority and directives in place for all peace officers through the United States Department of State as part of consular notification requirements.

EXECUTIVE SUMMARY

Crossing the southern border illegally and remaining in Texas are crimes. After crossing the border, illegal aliens move to every corner of the state and beyond. Many are undocumented which presents a challenge for police to identify those who commit crimes. This paper offers police strategies to fight against illegal aliens who remain in Texas and continue to commit crimes beyond the original offense of crossing the border. News articles often focus on securing the border, much of which the responsibility falls to the U.S. Border Patrol, Texas Department of Public Safety or troops of the National Guard ([Office of the Texas Governor, 2024](#)). Walls, fences, cameras and even drones are in the arsenal of tactics and tools used to slow the flow of illegal border crossings. In both military and police operations, officers are often tasked to hold a line—not a real line necessarily, but a representation of a point the enemy should not be allowed to pass. In combat, that line could be a hill, an island or a city. For police officers holding the line might take place during unlawful assemblies. In Texas, in our efforts to stop illegal entry, that line is our southern border. Beyond the border problems, there is an even tougher challenge: when illegal aliens get past our first line of defense and end up behind the lines. In a military operation, this could be deadly. Though a military model may seem an extreme example, the logic of “behind enemy lines” is a relatable analogy. When illegal aliens cross into Texas, law enforcement’s ability to track their whereabouts, learn their names, or hold them accountable for crime decreases multifold.

The focus of this paper is not about securing the border; those strategies are already in practice. This paper discusses the challenges of policing the problems related to illegal aliens who are now behind the lines of our border. Local peace officers are generally not part of the border security process overall, but these officers often encounter illegal aliens in the course of their daily duties statewide. This includes interactions during calls for service or during

officer-initiated activities such as traffic and pedestrian stops.

Officers are not required to record and report the immigration status of all the illegal aliens they encounter, in turn passing up a good opportunity to improve the quality of the data about the numbers of illegal aliens in the country. There is no precise accounting of the number of illegal aliens currently in Texas or the United States; there are only estimates.

Fighting illegal immigration must first take place at the border, but that fight must also take place throughout the state. This paper proposes strategies to fill the void by providing tools for peace officers to use to combat illegal alien crime throughout the state.

CHALLENGES TO POLICING ILLEGAL ALIENS IN TEXAS

According to a federal report from the U.S. Justice Department, “almost half of all of the criminals prosecuted in federal courts in 2018 were aliens, charged with crimes ranging from drug trafficking to murder to kidnapping” (Von Spakovsky, 2021). When illegal aliens are released back into the public after they serve their sentences, many reoffend (Arthur, 2021). It is imperative that Texas takes a step forward in making sure that illegal aliens who commit crimes in Texas do not have a chance to offend again.

Beyond challenges in policing reoffenders, other matters related to illegal aliens and crime require aggressive approaches. Crimes committed by illegal aliens can be challenging to investigate. If an offender has no identification and has never been arrested and booked, identifying the individual can often be difficult when they are not immediately identified by witnesses. When someone is arrested, they are fingerprinted and photographed as a minimum. Texas driver’s license offices now obtain thumbprints when obtaining or renewing a driver’s license, but an illegal alien’s thumbprints would not be a part of these records because they cannot obtain a license. To receive a Texas driver’s license, the Texas Department of Public Safety (DPS) requires persons to be U.S. citizens or to show evidence of lawful presence.

Language barriers also can slow efforts to identify individuals. These are all factors that complicate investigations and might allow an offender to easily remain unidentified and any crime they commit unsolved. Compounding these challenges is the lack of a statutory requirement for police officers to determine the immigration status of detained or arrested persons.

Completing field interview records has been a common practice for police officers for decades. Many crimes have been solved when an officer has previously recorded basic identifying information such as names, dates of birth and addresses during a field investigation, later adding it to a searchable file or database. Regularly recording the name and other identifiers of illegal aliens would certainly improve the ability for police to identify suspects who make up the illegal alien population. Police investigation today is enhanced by robust data storage, making information collected in the field available for immediate search. Information that aids in identifying offenders includes names, aliases, fingerprints, photographs, and, in some cases, DNA. When an officer does not capture and record basic identifying information from an illegal alien when lawfully allowed to do so, those identifiers are never entered in databases. Lacking identification or other records, it would be fair to refer to the many illegal aliens as “ghosts,” as they are extremely difficult to identify and track down. Texas peace officers should be required to record identifying information for any illegal alien when they obtain this information during lawful interactions.

In Texas, under the U.S. Constitution, local law enforcement officials cannot legally stop someone solely because they suspect him of being undocumented. Texas law enforcement cannot legally prolong someone’s detention to investigate their immigration status. However, it is legal for law enforcement to inquire about immigration status upon making an arrest, though it is not required by Texas law. The process of identifying illegal aliens should be required for law enforcement personnel where reasonable suspicion or probable cause exist.

Furthermore, it is not a crime in Texas to lie about your immigration status when detained or arrested. Conversely, it is a crime for a legal citizen to provide false information to police if arrested or detained. It is also a crime for a citizen to refuse to provide basic identifying information if arrested. Arguably, an illegal alien can lie about their immigration status without repercussions, but a citizen would face criminal charges for not properly identifying themselves.

A key focus of the paper is to layout law enforcement challenges in policing illegal immigration, both criminally and socially, and to discuss leading initiatives from not only lawmakers in Texas but from other states that focus on solutions. The author places special emphasis on enhancing the ability of law enforcement officers to better tackle crime, identify offenders, and provide a better accounting of persons who are illegally remaining in Texas.

These improvements include the need to require police to identify illegal aliens during detentions or arrests and to require officers to report unlawful immigrants to U.S. Immigrations and Customs Enforcement (ICE).

Other improvements include enhancing law enforcement training, criminal enforcement for illegal aliens not carrying identification documents, legislative changes to the Texas Penal Code for lying about one's immigration status during detention or arrest, and legislative changes to require recording the immigration status of detained or arrested persons by amending racial profiling statutes in the Code of Criminal Procedure.

ILLEGAL IMMIGRATION – A BRIEF SYNOPSIS

Broken Windows

Many social problems are compounded with unchecked entry into the country by illegal aliens. Quality of life concerns often surface in communities even if crime numbers are relatively low. Quality of life is a broad term that can include safe walking trails for citizens, shopping areas close by, clean streets, quality medical care, and highly ranked schools.

Citizens can move about without concern of being carjacked, burglarized, or robbed in a parking lot. Conversely, the quality of life suffers when schools become overcrowded, hospitals become flooded with patients, people start living on the street, and neighborhoods decline. When not addressed, the “broken windows” analogy becomes a reality ([Kelling & Wilson, 1982](#)). Under this analogy, when a few windows get broken in a community by troublemakers, the numbers of these minor crimes increase because crime and disorder become commonplace and accepted by residents in the neighborhood. Over time, more problems emerge. Abandoned buildings become drug havens. Businesses struggle to stay open, and many residents abandon the fight for their community as they see problems grow. Some citizens move away looking for a safer place to live, while those who cannot move begin to see a decline in their quality of life. Parks and other public venues become dangerous places littered with drug paraphernalia, trash, and homeless encampments. However, when police and citizens address problems early on and become intolerant of miscreants, communities can once again become strong and vibrant.

Following this analogy, a window is broken when a community allows illegal aliens to remain in it. According to the Federation for American Immigration Reform (FAIR), numerous social issues emerge from mass immigration ([Federation for American Immigration Reform, n.d.](#)). As the population of illegal aliens increases, communities see strains on school resources. Medical care facilities become crowded, and the highway system is stretched thin and struggles to handle the increased volume of cars. Because of the strain on resources and infrastructure, taxpayers are forced to cover the cost of education for the children of illegal aliens, pay higher medical costs, and fund the expansion of highway systems. State and federal funds are spent using taxpayer dollars to provide welfare assistance and food programs, all the while illegal aliens benefit without spending a dime. Crowded housing conditions in many areas contribute to problems with safety and hygiene, which can affect the property values

of tax-paying homeowners living nearby. These are all quality-of-life issues plaguing many communities throughout the country, and particularly in Texas ([Texas Attorney General, 2021](#)). When police, social services, citizens, and lawmakers become partners, much of this decline can be reversed. This paper explores some of the potential solutions to this very issue, with an emphasis on providing legislative authority and mandates to peace officers.

Quality of Life & Crime – Public Lands

Illegal entry into the country often occurs on public lands. The resulting impact deserves attention. Public lands, such as parks or refuges, are often meant for use and enjoyment by citizens and are funded by taxpayer dollars. However, lands along the border can be unsafe, littered, or even full of health risks due to use by illegal aliens coming into the country. This is highlighted by the United States Fish and Wildlife Department on their website. Conservative estimates reveal more than 500 tons of trash are left behind by illegal border crossers each year on the Buenos Aires ([U.S. Fish & Wildlife Service, n.d.](#)). More than 100 vehicles are towed from the refuge each year due to border activity. Many other vehicles litter the landscape because they are not near roads and cannot be easily towed. More than 1300 miles of illegal trails have been created on the refuge by illegal border crossers ([U.S. Fish & Wildlife Service, n.d.](#)). Unauthorized roads have been created by illegal border crossers as they attempt to evade law enforcement officers. Human feces and toilet paper litter the landscape. Illegal border crossers often damage or cut fences or leave gates open, which allows cattle to enter the refuge. Several fires each year are started by illegal border crossers. Mitch Ellis from U.S. Fish and Wildlife Service explained that these are either rescue fires as illegals got into trouble, or warming or cooking fires that have been left unattended ([U.S. Fish & Wildlife, n.d.](#)). If not policed, these issues cost all taxpayers for repair or cleanup.

Quality of Life & Crime – Private Lands

Public lands are not the only lands subjected to misuse in Texas by illegal immigration. Private properties belonging to those living at the border suffer

the harmful effects of unlawful crossings. Ranchers, farmers, and citizens from border counties live in a constant state of fear of the cartels who traffic illegal aliens into our state. In an April 2022 article, Texas Farm Bureau posted an article highlighting key points made about this very issue by U.S. Representative Tony Gonzales. The article distills down the key issues: “Homes and barns are vandalized. Equipment and vehicles are stolen. Clothes, backpacks, other items and trash are left behind in the ‘camps’ as illegal immigrants move through agricultural land, leaving farmers and ranchers left to clean up the mess. And fear and anxiety are high for families concerned about their safety” ([Tomascik, 2022](#)).

ILLEGAL IMMIGRATION – CRIMINAL JUSTICE ISSUES

Unlawful entry into the United States and remaining in the country undocumented are only part of the challenges in policing illegal immigration. Compounding these problems is how to identify illegal aliens who commit crimes. Many offenders have no identification and can easily remain undetected when committing offenses. Common practices for identifying suspects include using fingerprints, DNA, or existing identification records, such as an identification card or driver’s license. Even when identified, an illegal alien can flee back to their home country. Many illegal aliens carry no identification documents, and in the cases where they do, they often give false information to obtain the documents. Texas requires official identifying documents to obtain a driver’s license or identification card, and the applicant be a U.S. citizen or to show evidence of lawful presence.

Crime in the News

There are countless stories of illegal aliens committing crimes. A few recent examples, as outlined by the Federation for American Immigration Reform ([2024](#)), include the following:

- On March 2, 2024, Mexican national Raul Benitez Santana was speeding in Snohomish County while under the influence of drugs and alcohol and crashed into the vehicle of Washington State Trooper Christopher Gadd. The 27-year-old

law enforcement officer died of his injuries. He leaves behind a two-year-old daughter. Benitez Santana entered the U.S. illegally as a “gotaway” over a decade ago ([Fox News, 2024](#)).

- On March 5, 2024, ICE ERO arrested Indian national Syed Mohamed Tousif Mohiuddin in San Francisco, California. Mohiuddin initially flew into the U.S. via Detroit in March 2010 and overstayed his visa. An ICE press release shows that the illegal alien had a long criminal history: “The Fremont Police Department in Fremont [California] arrested Mohiuddin Aug. 19, 2013, for assault with a deadly weapon and vandalism” ([U.S. Immigration and Customs Enforcement, 2024b](#)).
- On February 8, 2024, Salvadoran national and MS-13 gang member Nilson Granados-Trejo and four other suspects were involved in a drug-related shootout in Prince George’s County, Maryland. This resulted in the death of 2-year-old Jeremy Poou-Caceres and injuries to his mother, who was taking her son out for a stroll ([Rondon, 2024](#)).
- On February 8, 2024, 15-year-old Venezuelan national Jesus Alejandro Rivas-Figueroa was shoplifting at a sporting goods store in Times Square in New York City. When stopped by a security guard, the illegal alien began firing a gun, shooting Brazilian tourist Tatiele Riberio Lemos in the leg, and shooting at police officers while escaping ([Katersky, 2024](#)).
- On February 8, 2024, ICE announced the arrest of 26 illegal aliens with “pending charges or convictions for murder, homicide and assault against children during a nationwide law enforcement effort” between January 16 and 28 in the area of San Francisco, California ([U.S. Immigration and Customs Enforcement, 2024a](#)).
- On February 8, 2024, Mexican national Rogelio Ortiz-Olivas was driving drunk in Midland, Texas, killing 10-year-old Alex “AJ” Wise, Jr., who was

walking home from school at the time ([Leesman, 2024](#)).

- These are but a few examples and an important reason peace officers must work to secure the border and stop illegal immigration into Texas.

The Drug Crisis

Fentanyl (among other drugs) is a major issue for law enforcement and for public health. Based on research published by the National Institute on Drug Abuse (NIDA), “the proportion of fatalities involving synthetic opioids other than methadone (fentanyl) has increased significantly since 2015. Of the 8,791 deaths in 2015, 20% also involved fentanyl. In 2022, this proportion increased to nearly 70% of all deaths involving benzodiazepines” ([NIDA, 2024](#)). In an article published in The Texas Tribune, the author Stephen Simpson noted, “From August 2022 to August 2023, there were an estimated 5,566 drug-related deaths in Texas, and 45% of them involved fentanyl, according to the Centers for Disease Control and Prevention. Texas Health and Human Services reported last year that, on average, five Texans die every day from fentanyl poisoning” ([Simpson, 2024](#)).

According to the Drug Enforcement Administration, fentanyl is smuggled across the U.S.-Mexico border in low concentration, high-volume loads ([Drug Enforcement Administration, 2020](#)). While Mexico and China are the primary source countries for fentanyl and fentanyl-related substances trafficked directly into the United States, India is emerging as a source for finished fentanyl powder and fentanyl precursor chemicals ([Drug Enforcement Administration, 2020](#)). Much of the smuggling is carried out by undocumented illegal aliens crossing the southern border into the United States ([Drug Enforcement Administration, 2020](#)).

Inaccurate Crime Data

The FBI has collected crime data about robbery, burglary, theft, and murder for decades, but each year the resulting report is limited in accuracy ([Maltz, 1999](#)). Most crime is measured by what is reported, while the “dark figure” of crime, that

which is unreported, is immeasurable. Law enforcement cannot measure what is never brought to the authorities. Moreover, reporting data in many jurisdictions is not mandated, thus leaving crime occurrences out of the totals (Maltz, 1999). The FBI's Uniform Crime Reports Index "doesn't measure drug dealing, simple assaults, fraud, vandalism, and weapons violations, among other crimes. Nor given the reluctance of localities to break down crimes by race and ethnicity, does it collect data on that basis either" (Horowitz, 2001). Based on this information, it stands to reason that data about crime committed by illegal aliens is also limited in accuracy (Kennedy et al., 2022). It is difficult to obtain an accurate measure of crime, especially when victims do not file police reports. Law enforcement can only estimate how much crime is occurring in each community. Likewise, law enforcement cannot accurately measure the number of persons entering the state illegally and the number of persons who remain after entry. Authorities often struggle to identify and apprehend illegal aliens who commit crimes because many of the offenders are undocumented (Kennedy et al., 2022). The term "undocumented" means that there is no record of their presence or existence. A suspect who has no identification, and has no fingerprint or DNA record, compounds the difficulty to identify them. Based on the discrepancies and lack in reporting about crimes, law enforcement severely struggles to record an accurate number of offenses committed by illegal aliens. Accuracy in both crime data and personal identifiers would certainly make crime statistics more accurate and the job of identifying suspects easier.

Police Staffing and Response to Crime

In addition to crime rates, police agencies often look at population numbers to plan for recruitment for staffing growth. For example, a common staffing model is to have 1.8 to 2.5 officers per 1,000 residents of the city's population (McCabe, n.d.). Arguably, this is an unreliable and inefficient model, as it leaves out many variables like call volume, crime rate, and response time goals. Census data has traditionally been useful in looking at staffing numbers, coupled with growth projections from local councils

of governments (Harvey, 2021). Regardless, population data is easily skewed. The number of illegal aliens in most metropolitan areas is unknown, or, at best, determined by a matter of guessing. Furthermore, it becomes impossible to allocate resources efficiently, particularly when the population estimates are unknown or skewed because illegal alien numbers are not known. Census data may show a city having a population of 35,000, but this could be much higher in areas with high illegal alien populations. This is yet another example of why collecting data during police interactions with illegal aliens can improve the quality of population data.

The Challenges of Sanctuary Cities

Jessica Vaughan, the Director of Police Studies for the Center for Immigration Studies, provides an excellent explanation of sanctuary cities and their practices:

These cities, counties, and states have laws, ordinances, regulations, resolutions, policies, or other practices that obstruct immigration enforcement and shield criminals from ICE — either by refusing to or prohibiting agencies from complying with ICE detainers, imposing unreasonable conditions on detainer acceptance, denying ICE access to interview incarcerated aliens, or otherwise impeding communication or information exchanges between their personnel and federal immigration officers. (Vaughan & Griffith, 2024)

Texas does not currently have jurisdictions formally claiming to be sanctuary cities. There are jurisdictions in Texas that have not completely cooperated with federal authorities looking to enforce immigration law (Fechter, 2022). When Senate Bill 4 was enacted in 2017, several cities were quick to file lawsuits about the legislation. The bill allowed Texas police officers to question the immigration status of anyone they detain or arrest and required local law enforcement agencies to cooperate with federal immigration officials by honoring ICE detainer requests for deportation. These were both controversial matters. Maverick County and the border city of El Cenizo led the

charge to sue, and were later followed by Dallas, El Paso, Houston, and Austin ([Mansoor & Pollock, 2017](#)). Even Mexico filed an affidavit expressing concern ([U.S. News, 2017](#)).

As of 2024, there are an estimated 300 sanctuary localities (cities and counties) in the United States ([Vaughan & Griffith, 2024](#)). All have explicit policies ordered to obstruct immigration enforcement ([Desautels, 2023](#)). Nearly \$300 million was awarded to sanctuary jurisdictions in 2021 through law enforcement-related grants by the federal government ([Desautels, 2023](#)). Some 43% of the \$1.4 billion available went to sanctuary jurisdictions ([Desautels, 2023](#)). If these jurisdictions accept funding without consequence, then there will be little incentive for them to reconsider their sanctuary policies under a future administration. However, if funding is stopped, a city might change its policies, especially where local tax dollars are tapped to fill the void ([Desautels, 2023](#)).

FIGHTING ILLEGAL IMMIGRATION – AN OVERVIEW OF INITIATIVES BY STATE GOVERNMENTS

Several states have taken steps to police illegal immigration beyond the border. Several examples are provided below.

Arizona – SB 1070

In 2010, Arizona passed SB 1070 to address pressing issues related to the large number of unauthorized aliens in the state ([SB 1070, 2010](#)). Shortly after, the federal government sought to stop the enforcement of the law, and in 2012, the fight made it all the way to the Supreme Court. In a 5–3 decision, the Supreme Court held that the first, second, and fourth provisions of SB 1070 were preempted by federal immigration law ([Arizona v. United States, 2012](#)).

The section of SB 1070 that made it a state crime to reside in the country without legal permission was preempted because it conflicted with federal provisions already in place governing the legal immigration process. The section that made it a state crime to work in the country without legal permission was

preempted because it imposed criminal penalties on such individuals in direct conflict with federal law. The section that allowed the warrantless arrest of individuals based on probable cause of unlawful presence was preempted because it obstructed the federal government's authority over determining when to arrest an individual residing in the country without legal permission ([Arizona v. United States, 2012](#)).

What did not get struck down by the Supreme Court was Section 2(B), the provision requiring the verification of the legal status of all arrestees and detainees. The Court found no evidence that it conflicted with or obstructed federal law enforcement ([Arizona v. United States, 2012](#)). The Arizona law requires the immigration status to be verified with the federal government for anyone who is arrested that officers deem with reasonable suspicion of unlawfully being in the state of Arizona. It stipulates that law enforcement cannot consider race, color, or national origin when implementing these provisions.

Florida – SB 1718

In Florida, Governor Ron DeSantis signed Senate Bill 1718 into law on May 10, 2023 ([SB 1718, 2023](#)). The bill requires employers to use E-Verify to check the employment eligibility of employees, and fines employers for not using the system. It suspends the licenses of any employer who knowingly employs illegal aliens and makes using fake identification to gain employment a felony. The bill enhances penalties for human smuggling and provides \$12 million to continue transporting illegal immigrants out of Florida to sanctuary jurisdictions. It prevents local governments and NGOs from issuing identification documents to illegal aliens and invalidates all out-of-state driver licenses issued to illegal aliens. The legislation also requires hospitals to collect and report healthcare costs for illegal ([SB 1718, 2023](#)).

Iowa – SF 2340

Iowa Governor Kim Reynolds signed Senate Files (SF) 2340 into law on April 10, 2024. This bill is modeled after laws enacted in Texas. The bill makes it a crime for a person to be in the state if they were previously

denied entry to or were deported from the U.S. (Hendricks & Dvorak, 2024).

Oklahoma – HB 4156

On April 30, 2024, Oklahoma Governor Kevin Stitt signed into law House Bill 4156 (HB 4156, 2024). The legislation imposes penalties for being in the state illegally. The Oklahoma law creates a new crime called “impermissible occupation.” Impermissible occupation is committed when an illegal alien willfully and without permission or legal authorization enters Oklahoma and remains in the state. A first impermissible occupation offense is a misdemeanor punishable by up to one year in jail, or a \$500 fine, or both. Following the conviction or release from custody, the individual is required to leave the state within 72 hours (FAIR, 2024).

Texas – SB 4

Senate Bill 4, passed in 2017, allows Texas police officers to question the immigration status of anyone they detain or arrest (SB 4, 2017). This legislation requires local law enforcement agencies to cooperate with federal immigration officials by honoring ICE detainer requests for deportation. If local police agencies do not adhere to the directions of ICE, they can face fines, jail time, or even job termination. SB 4 does not mandate that immigration status be verified upon request. The Fifth Circuit Court of Appeals held oral arguments in April of 2024 on various claims brought by the Biden Administration over concerns with the law (United States v. Texas, 2024). Justice Department lawyers argued that the Constitution’s “supremacy clause” preempts states from enforcing federal immigration laws (United States v. Texas, 2024, p. 12). Federal courts have previously ruled that immigration laws can only be enforced by the federal government. Texas argued that states have the right to defend themselves under Article I, Section 10, of the Constitution (Mendez, 2024).

TACKLING THE PROBLEMS HEAD ON

There are few existing strategies for Texas peace officers to fight illegal immigration beyond the border, but they are underutilized. There are additional strategies that would strengthen efforts to police the

many problems created when illegal aliens flood our state. In this section, the author discusses both sets of existing tools, and includes recommendations for improvement.

Duties of Peace Officers / Dereliction of Duty under the Code of Criminal Procedure

Many of the duties currently in the Texas Code of Criminal Procedure are violated when officers do not enforce laws related to illegal aliens. This is important because those who fail to uphold the law are not fulfilling their sworn duty and thus contribute directly to the problems stemming from mass, unchecked illegal immigration. Agencies and individual officers who do not follow the mandates of the Texas Code of Criminal Procedure are derelict in their duty. A city or police department who ignores crime—including unlawful entry into Texas—fails to fulfill their duty. Failure violates a peace officer’s oath of office and the Law Enforcement Code of Ethics (International Association of Chiefs of Police, n.d.). A duty is a directive to peace officers. It is not meant as an option; it is meant to compel officers to fulfill their sworn obligations.

Texas peace officers wield considerable power to enforce the law, but the full extent of that power is not used often enough in the fight against illegal immigration. This failure to do so could be because a leader in the police organization might discourage or even order officers not to take enforcement action against illegal aliens. It could also be because of the personal stance of the individual officer against enforcing the law. In either of these examples, a dereliction of duty is committed. Article 2.13 of the Texas Code of Criminal Procedure outlines the duties and powers of peace officers. The article states that officers shall interfere without warrant to prevent or suppress crime, to arrest offenders without warrant where authorized by law, and to give notice to some magistrate of all offenses committed within the officer’s jurisdiction (Texas Code of Criminal Procedure, n.d., Article 2.13).

Because illegal entry (and remaining illegally) into the United States is a crime, all illegal aliens have

committed a crime, even though many try to steer clear of criminal acts once in the country. Failure to carry immigration documents is also a crime. An illegal alien would not have immigration documents unless they took steps to lawfully obtain them. Beyond these offenses, simply operating a vehicle without a driver's license is a crime. An illegal alien cannot lawfully obtain a Texas driver's license, but it is common for peace officers to stop unlicensed aliens driving motor vehicles throughout the state.

Article 2.251 of the Texas Code of Criminal Procedure places another duty on law enforcement, namely, when they have the subject in custody with an immigration detainer request, law enforcement has a duty to comply with, honor, and fulfill the request ([Texas Code of Criminal Procedure, n.d., Article 2.251](#)). This is a valuable tool for Texas peace officers when dealing with illegal aliens. However, if an officer fails in this duty to enforce a detainer, especially in cases where the subject is in custody for a minor crime, the offender may be released from custody and allowed back into the community to potentially offend again.

Consular Notification Requirements and Allowances – A Federal Tool for Local Officers

Even without state legislation giving broader power to Texas peace officers, there is already legal authority and directives in place for all peace officers through the United States Department of State as part of consular notification requirements. This authority is outlined in consular notifications instructions for law enforcement officials published by the Department of State ([U.S. Department of State, 2018](#)).

As part of the consular notification process, foreign nationals are entitled to consular services, and in some instances, the law requires officers to notify the consulate for the person they have arrested. A "foreign national" is any person who is not a U.S. citizen ([U.S. Department of Homeland Security, n.d.](#)). Irrespective of the country of citizenship, arresting officers should inquire of the person arrested about whether they are United States citizens. This ensures that the consular process is followed.

Consular notification requirements provide an excellent tool for law enforcement officers at the federal, state, and local levels. These requirements allow peace officers to inquire about the immigration status of persons arrested or detained, and this tool reminds officers that it is a crime for foreign nationals to fail to carry immigration documents. Related to immigration documents, the Department of State publication on consular notification requirements states:

Federal law requires that most foreign nationals carry immigration documents with them at all times while in the United States. See 8 U.S.C. § 1304(e). However, arresting officers will frequently come across aliens without documentation identifying their country of nationality. It is the arresting officer's responsibility to inquire about a person's nationality if there is any reason to believe that he or she is not a U.S. citizen. In all cases where an arrestee claims to be a non-U.S. citizen, arresting officers should follow the appropriate consular notification procedures, even if the arrestee's claim cannot be verified by documentation. ([U.S. Department of State, 2018, p. 13](#))

Inquiring about the immigration status of someone who is arrested or detained would help law enforcement identify those individuals who are illegal aliens and would provide a more accurate accounting of the numbers of illegal aliens residing in a given jurisdiction. The Department of State publication explains:

Routinely asking every person arrested or detained whether he or she is a U.S. citizen is highly recommended and is done by many law enforcement entities. Asking this question is the most effective way to ensure that you are complying with consular notification requirements. Moreover, asking everyone this question will reduce concerns about discrimination based on national origin or ethnicity. If a detainee claims to be a U.S. citizen in response to such a question, you generally can rely on that assertion and assume that consular notification requirements

are not relevant. If you have reason to doubt that the person you are arresting or detaining is a U.S. citizen, however, you should inquire further about nationality so as to determine whether any consular notification obligations apply. You should keep a written record of whether the individual claimed to be a U.S. citizen and of any additional steps you took to determine the individual's nationality. (U.S. Department of State, 2018, pp. 12-13)

Training Peace Officers

Peace officers in Texas are currently provided training in consular notification as part of the "Basic Peace Officer Course" (Texas Commission on Law Enforcement, n.d.). There is no requirement for in-service training to update officers or provide training to those who may have not received training in older curriculums. Consular notification receives little attention in law enforcement training. If an officer has not received initial training on consular notification or updated training throughout his career, he may not be aware of his authority and obligations under consular notification laws. This creates a deficiency in the thorough collection of data about illegal aliens by peace officers who encounter illegal aliens in the field on traffic stops or calls for service. If the Texas Legislature applies additional authority and duties for peace officers in the 89th legislative session, updated training will be necessary.

Racial Profiling Under Texas Law

Texas Code of Criminal Procedure, Art. 2.132, requires peace officers during traffic stops to record data about the detained individual's race or ethnicity, whether a search was conducted and whether the individual detained consented to the search, and whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual (Texas Code of Criminal Procedure, n.d., Article 2.132). Missing in this statute is a mandate to record the citizenship of the detained individual. Making the collection of this information mandatory would improve the quality and accuracy of data about the numbers of illegal aliens residing in Texas. As noted above, the State Department holds that "routinely

asking every person arrested or detained whether he or she is a U.S. citizen is highly recommended and is done by many law enforcement entities" (U.S. Department of State, 2018, pp. 12-13). Texas legislators should mandate that peace officers obtain citizenship data as an addition to the other requirements of this statute.

Failure to Identify Under Texas Law

The authority of Texas peace officers should be enhanced by legislative additions to Texas Penal Code Section 38.02, Failure to Identify. It should be a crime to fail to provide immigration status information or to provide false information when arrested. Currently, when a person is arrested, Section 38.02 makes it a crime to withhold identifying information to the arresting peace officer (Texas Penal Code, 2023, Section 38.02). Arrestees cannot refuse to give their name, residence address, or date of birth, or even a false version of any of these things when lawfully arrested or detained. Presently, a detained individual is not required by Texas law to provide any statements to police or to provide their name. Detention does not override 5th Amendment protections, but if suspects do speak with officers and offer false information, this now becomes an offense under Section 38.02.

The Failure to Identify statute should be broadened to make it a crime to not provide citizenship information when arrested, or for providing untruthful citizenship information when an individual is arrested or detained. This would give peace officers another tool to fight illegal immigration.

The Tools of Reasonable Suspicion, Detention, and Probable Cause

The U.S. Supreme Court has recognized the need for police detentions when investigating possible criminal activity. Stopping someone, even without probable cause, is sometimes necessary to effectively detect and prevent crime. The Supreme Court recognized in *Terry v. Ohio*, that in certain suspicious circumstances, peace officers may not have immediate probable cause to make an arrest, but there is a need for further investigation. In *Terry v. Ohio*,

the justices allowed for temporary detention, if the police were actively investigating to determine if a crime was occurring or had occurred (1968). The Court explained, “It is this interest which underlies the recognition that a police officer may in appropriate circumstances and in an appropriate manner approach a person for purposes of investigating possibly criminal behavior even though there is no probable cause to make an arrest” (*Terry v. Ohio*, 1968).

During detentions, an officer may conduct an interview to determine if the person detained is committing or has committed a crime. Currently, a person cannot be required by law to identify himself when detained; identifying oneself only applies when someone is arrested. Detained persons are under no obligation to answer questions from officers. Length of a detention varies, but officers should be actively investigating the situation and detentions must be ended when suspicion is dispelled. In *United States v. Sokolow*, the Supreme Court noted that reasonable suspicion is based upon the totality of the circumstances (1989). Under the Court’s decisions, “the totality of the circumstances must be evaluated to determine the probability, rather than the certainty, of criminal conduct” (*United States v. Sokolow*, 1989).

Investigative detention is used nationwide and allows officers to hold persons for a limited time to investigate whether the individual is committing or has committed a crime. The legal requirement for detention is reasonable suspicion, which is a lower threshold than probable cause (FindLaw, 2022, para. 5). A detention is lawful if it meets three elements (*Terry v. Ohio*, 1968). First, the law enforcement officer must have reasonable suspicion something out of the ordinary is or has taken place. Second, the officer must connect a person to the activity. For example, the officer may see someone peering into multiple cars in a parking garage. Third, the officer must believe criminal activity is afoot. In the example above, the officer may believe the person is about to break into a car. With these elements met, peace officers can detain individuals for investigation.

Peace officers should have the authority to investigate an individual’s citizenship or immigration status if there is reasonable suspicion to believe they are committing or have committed a crime. Unlawful entry or remaining unlawfully in the United States is a crime under 8 U.S. Code § 1325.

There are numerous situations that should trigger suspicion by peace officers to further investigate. For example, a person must provide a driver’s license or identify themselves when stopped for a traffic violation. If the offender cannot produce identification or has no record on file, the officer should question them about their immigration status. Foreign nationals are required under federal law to have identification under 8 U.S.C. § 1304(e). Therefore, it is lawful to ask questions of detained persons, and officers should make it customary practice. It is important to remember that questioning detained persons does not trigger Miranda Rights. The requirement to read someone their rights is only required in a custodial setting. For example, when someone is arrested and handcuffed, it is often understood as custodial in nature, meaning a person is physically detained by an arresting officer and taken into police custody.

The Fourth Amendment standard for arrest is “probable cause.” This term describes situations where the facts and circumstances surrounding a situation would “warrant a man of reasonable caution” to believe a crime is being, has been, or is about to be committed (U.S. Department of Justice, 2022, p. ii). Coupled with probable cause, peace officers must have legal authority to make an arrest. In Texas, arrests can be made under the authority of a warrant (for offenses committed in the presence or view of the officer) or for limited instances (where the officer did not see the crime but still can make an arrest). Examples of unviewed crimes where an arrest is authorized without a warrant include assaults, domestic violence situations, and admission to a felony. All warrantless arrest authority is outlined in Chapter 14 of the Texas Code of Criminal Procedure (Texas Code of Criminal Procedure, Chapter 14). Mandating arrests of illegal aliens where probable cause of a crime exists is an option if Texas peace officers were

given the legal authority and an accompanying mandate through legislation. This authority is not currently available to officers. However, this could result in lawsuit upon lawsuit, even with well-crafted statutes. Texas' Senate Bill 4(2017), which banned sanctuary cities, is an example of how new legislation can quickly fuel legal action, given that multiple cities have sued over this legislation not long after it was enacted ([Mansoor & Pollock, 2017](#)). Beyond the potential for so many legal challenges, a mandate to arrest might be viewed as a large overstep by the general public, given that most arrest authority has a discretionary element, where the officer in the field makes their own decision.

Giving statutory authority to Texas peace officers for warrantless arrests for immigration violations would provide legal authority but should remain a discretionary tool rather than a mandate to peace officers. The arrest decision should be left to the officer in the field so that they may best carry out each interaction as they see fit within the law. Warrantless arrests in Texas are not mandatory for unviewed offenses, except for violating a protective order in the presence of a peace officer ([Texas Code of Criminal Procedure, Chapter 14](#)). Discretion should be allowed, not mandated, though some might argue that all illegal aliens should be arrested in any situation where an officer has probable cause. Experienced officers are better equipped to make decisions in the field than to follow the mandate of lawyers and politicians who have no such experience. In *Illinois v. Gates* (1983), the court noted:

Perhaps the central teaching of our past decisions bearing on the probable cause standard is that it is a practical, non-technical conception. In dealing with probable cause ... as the very name implies, we deal with probabilities. These are not technical; they are the factual and practical considerations of everyday life on which reasonable and prudent men (peace officers), not legal technicians (attorneys), act. (*Illinois v. Gates, 1983*)

At a minimum, Texas peace officers should have discretion to investigate immigration status under

the reasonable suspicion standard outlined in *Terry v. Ohio*, and then decide if arrest is appropriate if they develop probable cause as required by the Fourth Amendment. This would not accommodate for jurisdictions that encourage police inaction, but additional legislation and penalties could help overcome those limitations.

287(g) Program

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 added Section 287(g) to the Immigration and Nationality Act ([American Immigration Council, 2021](#)). This section of law authorizes the director of ICE to enter into agreements with state and local law enforcement agencies that permit designated officers to perform limited immigration law enforcement functions. Agreements under Section 287(g) require the local law enforcement officers to receive appropriate training and to function under the supervision of ICE officers.

There are many benefits and advantages for officers under the 287(g) program. Deputized officers have the authority to interview individuals in order to ascertain their immigration status and check the DHS databases for information on individuals. These officers can issue immigration detainers to hold individuals until ICE takes custody, enter data into ICE's database and case management system, issue a "Notice to Appear," and make recommendations for voluntary departure in place of formal removal proceedings. Officers can also make recommendations for detention and immigration bonds and transfer noncitizens into ICE custody ([American Immigration Council, 2021](#)). This is a broad set of tools for officers to use in dealing with illegal aliens who have already crossed the border and are in varying parts of the state.

There are two models in which a law enforcement agency can participate under section 287(g). The first model is the Jail Enforcement Model (JEM), where certain state and local law enforcement officers are trained, certified, and authorized by ICE to perform only those immigration functions that are established on the Standard Operating Procedures (SOP) of the Memorandum of Understanding (U.S.

[Immigration and Customs Enforcement, n.d.](#)). The second model is the Warrant Service Officer (WSO) model, which is a narrower cooperative agreement where officers are trained to perform limited functions of an immigration officer ([U.S. Immigration and Customs Enforcement, n.d.](#)).

Currently, use of the 287(g) program is voluntary, and as of May 2024, ICE has 287(g) JEM agreements with 61 law enforcement agencies in 17 states, and WSO agreements with 75 agencies in 11 states ([U.S. Immigration and Enforcement, n.d.](#)). Texas is voluntarily enrolled in 26 agreements, three of them being WSO agreements ([U.S. Immigration and Enforcement, n.d.](#)). It is crucial to note that the program is not race- or ethnicity-oriented. Anyone who is arrested and booked into a jail that has a 287(g) program will be screened, and everyone who is screened will go through the same booking process. While Congress oversees the use and functions of the program, the DHS Office of Civil Rights and Civil Liberties also reviews the program ([U.S. Department of Homeland Security, n.d.](#)) To date, none of the oversight agencies have demanded any substantive changes in the program, and ICE has ended only two agreements because the agency believed that the counties in the agreements were not operating within the guidelines.

In fiscal year 2019, the program encountered 775 noncitizens convicted for assault, 704 convicted for dangerous drugs, 145 convicted for sex offenses and assaults, 173 convicted for obstructing police, 110 convicted for weapon offenses, and 21 convicted for homicide ([U.S. Immigration and Enforcement, n.d.](#)). If Texas were to require all local law enforcement agencies to participate in one of the two models of this agreement, criminal illegal aliens could be more quickly identified and removed from Texas communities.

RECOMMENDATIONS

- Texas lawmakers should enact legislation requiring peace officers to determine the status of anyone they stop, detain, or arrest if reasonable suspicion exists that that person is unlawfully present in the state.

- Texas law enforcement officials should be required to ask for immigration status after making an arrest. This law would not be discriminatory, as it would apply to every person arrested in Texas for breaking the law.
- Texas law enforcement officials should be required to report to ICE the immigration status and identifiers for all persons arrested or detained when those individuals are unlawfully present in the state.
- Texas, through the Texas Commission on Law Enforcement (TCOLE), should mandate additional training to better educate peace officers on current laws and best practices in combating illegal entry. A focus on lawful application of the Fourth Amendment is critical and deserves special attention in training.
- Texas lawmakers should enact legislation allowing peace officers to arrest aliens not carrying immigration documents. This is backed by federal law, which requires that (most) foreign nationals always carry immigration documents with them while in the United States.
- Texas lawmakers should enact legislation requiring that individuals be charged with “Failure to Identify” if they do not provide citizenship information when arrested, or if they provide false information when arrested or detained.
- Texas lawmakers should enact legislation requiring all Texas law enforcement agencies to participate in the 287g program.
- Texas Code of Criminal Procedure, Art. 2.132, related to racial profiling, should be amended to require peace officers to record citizenship information for all persons stopped for traffic violations. A traffic stop is a detention and falls in line with the Department of State’s recommendations to inquire into the immigration status of all persons arrested or detained ([U.S. Department of State, 2018, pp. 12-13](#)).

- Texas lawmakers should enact legislation under the Texas Code of Criminal Procedure, Article 2.13, related to the duties of peace officers, to include a duty to protect southern border of the state from those who attempt to enter our borders illegally and to enforce laws related to those who remain in Texas illegally.

CONCLUSION

It is no question that there is a problem with securing Texas' southern border. Texas must broaden the power of peace officers to combat crime and address the quality-of-life matters stemming from unchecked illegal immigration. An intensive, cohesive approach is necessary, and that approach must be backed by our lawmakers and applied statewide. During the 89th Texas Legislature, lawmakers have an opportunity to provide that backing and strengthen law enforcement powers. Police officers need authority of law and must be made duty-bound

to identify offenders, and in turn provide a better accounting of persons who are illegally present in Texas. Peace officers must be mandated to identify illegal aliens during detentions and arrests, and be required to report unlawful aliens to ICE. Other improvements include enhancing law enforcement training, increasing criminal enforcement for illegal aliens not carrying identification documents, adding legislative changes to the Texas Penal Code for lying about one's immigration status during detention or arrest, and adding legislative changes to require recording the immigration status of detained or arrested persons by amending racial profiling statutes in the Texas Code of Criminal Procedure.

It is time for Texas peace officers to regain perspective, focus clearly, and begin to aggressively attack the problem of illegal immigration. If legislators give our peace officers the tools and authority, Texas law enforcement can get this job done. ■

REFERENCES

- American Immigration Council. (2021, July 9). *The 287(g) program: An overview*. <https://www.americanimmigrationcouncil.org/research/287g-program-immigration>
- Arizona v. United States*, 567 U.S. 387 (2012). <https://www.oyez.org/cases/2011/11-182>
- Arthur, A. (2021, September 28). *Understanding 'Recidivism' at the Southwest Border*. Center for Immigration Studies. <https://cis.org/Arthur/Understanding-Recidivism-Southwest-Border>
- Associated Press. (2017, June 26). *Mexico to file affidavit expressing concern over Texas law*. <https://www.usnews.com/news/best-states/texas/articles/2017-06-26/mexico-to-file-affidavit-expressing-concern-over-texas-law>
- Associated Press. (2024, March 8). *Killing of Laken Riley is now front and center of US immigration debate and 2024 presidential race*. <https://apnews.com/article/laken-riley-university-georgia-death-nursing-student-a88e92600ab4dcce1a88e121b7b9c722>
- Desautels, N. (2023, August 3). *Republicans can find a concrete win in stripping sanctuary city grants*. Center for Immigration Studies. <https://cis.org/Oped/Republicans-Can-Find-Concrete-Win-Stripping-Sanctuary-City-Grants>
- Drug Enforcement Administration. (2020). *Fentanyl flow to the United States*. https://www.dea.gov/sites/default/files/2020-03/DEA_GOV_DIR-008-20%20Fentanyl%20Flow%20in%20the%20United%20States_0.pdf
- Fechter, J. (2022, April 8). *San Antonio settles lawsuits alleging police violated state's "sanctuary city" law*. The Texas Tribune. <https://www.texastribune.org/2022/04/08/san-antonio-sanctuary-cities-lawsuitpaxton/#:~:text=San%20Antonio%20must%20pay%20%24300%2C000,authorities%20from%20enforcing%20immigration%20law>
- Federation for American Immigration Reform (FAIR). (n.d.). *Societal impact of immigration: Fast facts*. Retrieved August 21, 2024, from <https://www.fairus.org/issues/societal-impact>
- Federation for American Immigration Reform (FAIR). (2024, May 6). *Oklahoma enacts strong immigration enforcement law similar to Texas and Iowa laws*. <https://www.fairus.org/legislation/state-and-local/oklahoma-enacts-strong-immigration-enforcement-law-similar-texas-and>
- FindLaw. (2022, July 21). *Supreme Court interpretation of probable cause*. <https://constitution.findlaw.com/amendment4/annotation04.html#:~:text=Is%20probable%20cause%20the%20same,criminal%20activity%20is%20taking%20place>
- Fox News. (2024, February 27). *Fifth suspect arrested in tragic murder of 2-Year-old Jeremy Pooou Caceres*. <https://www.fox5dc.com/news/fifth-suspect-arrested-in-tragic-murder-of-2-year-old-jeremy-pooou-caceres>
- Fox News. (2024, March 24). *Driver charged in death of Washington State Patrol Trooper Gadd*. <https://www.fox13seattle.com/news/driver-charged-in-death-of-wsp-trooper-gadd>
- Harvey, W. (2021, January 15). *The use of census data for police administrators*. Officer.com. <https://www.officer.com/command-hq/article/21157115/the-use-of-census-data-for-police-administrators>

- HB 4156. 2024 Oklahoma Legislature. (2024). http://webserver1.lsb.state.ok.us/cf_pdf/2023-24%20ENR/hb/HB4156%20ENR.PDF
- Hendricks, C. & Dvorak, G. (2024, May 9). *Immigration groups file lawsuit saying Iowa ‘scheme’ circumvents federal law*. Gray Television Iowa Capitol Bureau. <https://www.wowt.com/2024/05/09/immigration-groups-file-lawsuit-saying-iowa-scheme-circumvents-federal-law/>
- Horowitz, C. (2001, May 1). *An examination of U.S. immigration policy and serious crime*. Center for Immigration Studies. <https://cis.org/Report/Examination-US-Immigration-Policy-and-Serious-Crime>
- Illinois v. Gates*, 421 U.S. 231. <https://supreme.justia.com/cases/federal/us/462/213/>
- International Association of Chiefs of Police. (n.d.). *Law enforcement code of ethics*. Retrieved August 22, 2024, from <https://www.theiacp.org/resources/law-enforcement-code-of-ethics>
- Katersky, A. (2024, February 10). *Teen charged with attempted murder after allegedly shooting tourist in Times Square, firing at officer*. ABC News. <https://abcnews.go.com/US/gunman-shoots-tourist-times-square-fires-officer-manhunt/story?id=107095275>
- Kelling, G., & Wilson, J. (1982). *Broken windows*. The Atlantic. <https://www.theatlantic.com/magazine/archive/1982/03/broken-windows/304465/>
- Kennedy, S., Richwine, J. & Camarota, S. (2022, October 11). *Misuse of Texas data understates illegal immigrant criminality*. Center for Immigration Studies. <https://cis.org/Report/Misuse-Texas-Data-Understates-Illegal-Immigrant-Criminality>
- Leesman, M. (2024, February 19). *Illegal immigrant deported five times allegedly killed 10-year-old child in hit-and-run*. Townhall. <https://townhall.com/tipsheet/madelineleesman/2024/02/19/illegal-immigrant-deported-five-times-allegedly-killed-10-year-old-child-in-hit-and-run-n2635429>
- Maltz, M. (1999). *Bridging gaps in police crime data*. United States Department of Justice. <https://bjs.ojp.gov/content/pub/pdf/bgpcdes.pdf>
- Mansoor, S. & Pollock, C. (2017, May 8). *Everything you need to know about Texas’ “sanctuary cities” law*. The Texas Tribune. <https://www.texastribune.org/2017/05/08/5-things-know-about-sanctuary-cities-law/>
- McCabe, J. (n.d.). *An analysis of police department staffing: How many officers do you really need?* International City/County Management Association Center for Public Safety Management. Retrieved August 26, 2024, from https://icma.org/sites/default/files/305747_Analysis%20of%20Police%20Department%20Staffing%20_%20McCabe.pdf
- Mendez, M. (2024, March 18). *Texas immigration law: Here’s what to know about SB 4*. The Texas Tribune. <https://www.texastribune.org/2024/03/18/texas-sb-4-immigration-arrest-law/>
- National Institute on Drug Abuse. (2024). *Drug overdose deaths: Facts and figures*. <https://nida.nih.gov/research-topics/trends-statistics/overdose-death-rates#:~:text=The%20proportion%20of%20fatalities%20involving,of%20all%20deaths%20involving%20benzodiazepines>
- Office of the Texas Governor. (2024, August 16). *Texas triples razor wire barriers to stop illegal immigrants* [Press release]. <https://gov.texas.gov/news/post/texas-triples-razor-wire-barriers-to-stop-illegal-immigrants>

- Rondon, E. A. (2024, February 7). *An illegal Salvadoran immigrant is arrested, accused of several crimes, including murder of a 2-year-old boy in DC*. Voz. <https://voz.us/en/society/240228/13048/an-illegal-salvadoran-immigrant-is-arrested-accused-of-several-crimes-including-murder-of-a-2-year-old-boy-in-dc.html?lang=en>
- SB 4. Enrolled. 85th Texas Legislature. Regular. (2017). <https://capitol.texas.gov/tlodocs/85R/billtext/pdf/SB00004F.pdf>
- SB 1718. Enrolled. 2023 Florida Legislature. (2023). <https://www.flsenate.gov/Session/Bill/2023/1718/BillText/er/PDF>
- SB 1070. Enrolled. 49th Arizona Legislature. Second Regular. (2010). <https://www.azleg.gov/legtext/49leg/2r/bills/sb1070s.pdf>
- Simpson, S. (2024, May 5). *Travis County is shifting focus to prevent overdose deaths as fentanyl ravages the area*. The Texas Tribune. <https://www.texastribune.org/2024/05/16/texas-travis-county-drug-deaths-fentanyl-overdose/#:~:text=From%20August%202022%20to%20August,every%20day%20from%20fentanyl%20poisoning>
- State of Florida. (2023, May 10). *Governor Ron DeSantis signs strongest anti-illegal immigration legislation in the country to combat Biden's border crisis*. <https://www.flgov.com/2023/05/10/governor-ron-desantis-signs-strongest-anti-illegal-immigration-legislation-in-the-country-to-combat-bidens-border-crisis/>
- Terry v. Ohio*, 392 U.S. 1 (1968). <https://supreme.justia.com/cases/federal/us/392/1/>
- Texas Attorney General. (2021, March 31). *AG Paxton: Illegal immigration costs Texas taxpayers over \$850 million each year* [Press release]. <https://www.texasattorneygeneral.gov/news/releases/ag-paxton-illegal-immigration-costs-texas-taxpayers-over-850-million-each-year>
- Texas Attorney General. (2018, March 13). *AG Paxton praises 5th Circuit ruling to uphold Texas' sanctuary cities law*. <https://www.texasattorneygeneral.gov/news/releases/ag-paxton-praises-5th-circuit-ruling-uphold-texas-sanctuary-cities-law>
- Texas Commission on Law Enforcement. (n.d.). *Course curriculum materials and updates*. Retrieved August 22, 2024, from <https://www.tcole.texas.gov/course-curriculum-materials-and-updates>
- Texas Code of Criminal Procedure. (n.d.). Chapter 2. Retrieved August 22, 2024, from <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.2.htm>
- Texas Code of Criminal Procedure. (n.d.). Chapter 14. Retrieved August 22, 2024, from <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.14.htm>
- Texas Penal Code § 38.02 (2023). <https://statutes.capitol.texas.gov/Docs/PE/htm/PE.38.htm#:~:text=38.02.,person%20and%20requested%20the%20information>
- The Guardian. (2024, March 10). *Biden says he regrets using term 'illegal' to describe Laken Riley murder suspect*. <https://www.theguardian.com/us-news/2024/mar/10/biden-trump-laken-riley-immigration>
- Tomascik, J. (2022, April 13). *Illegal immigration continues to impact ag, rural communities*. Texas Farm Bureau. <https://texasfarmbureau.org/illegal-immigration-continues-to-impact-ag-rural-communities/>

United States v. Sokolow, 490 U.S. 1 (1989). <https://supreme.justia.com/cases/federal/us/490/1/>

United States v. Texas, 601 U.S. (2023). <https://www.ca5.uscourts.gov/opinions/pub/24/24-50149-CV2.pdf>

U.S. Department of Homeland Security. (n.d.). *Glossary*. Retrieved August 22, 2024, from ohss.dhs.gov/glossary

U.S. Department of Justice. (2022). *A brief explanation of probable cause for foreign authorities*. <https://www.justice.gov/criminal/criminal-oia/file/1498816/dl#:~:text=To%20satisfy%20the%20probable%20cause,of%20the%20U.S.%20Supreme%20Court>

U.S. Department of State. (2018). *Consular notification and access: 5th edition*. https://travel.state.gov/content/dam/travel/CNAtrainingresources/CNA%20Manual%205th%20Edition_September%202018.pdf

U.S. Immigration and Customs Enforcement. (n.d.). *Delegation of immigration authority section 287(g) Immigration and Nationality Act*. Retrieved August 26, 2024, from <https://www.ice.gov/identify-and-arrest/287g>

U.S. Immigration and Customs Enforcement. (2024a, February 8). *ERO San Francisco arrests 26 noncitizens with pending charges or convictions for murder, homicide and assault against children during nationwide operation*. <https://www.ice.gov/news/releases/ero-san-francisco-arrests-26-noncitizens-pending-charges-or-convictions-murder>

U.S. Immigration and Customs Enforcement. (2024b, March 11). *ERO San Francisco arrests at-large fugitive*. <https://www.ice.gov/news/releases/ero-san-francisco-arrests-large-fugitive>

U.S. Fish & Wildlife Service. (n.d.). *The impact of illegal immigration on public lands*. Retrieved August 26, 2024, from <https://www.fws.gov/testimony/impacts-illegal-immigration-public-lands>

U.S. News. (2017, June 26). *Mexico to file affidavit expressing concern over Texas law*. <https://www.usnews.com/news/best-states/texas/articles/2017-06-26/mexico-to-file-affidavit-expressing-concern-over-texas-law>

Vaughan, J. & Griffith, B. (2024, April 12). *Map: Sanctuary cities, counties, and states*. Center for Immigration Studies. <https://cis.org/Map-Sanctuary-Cities-Counties-and-States>

Vertuno, J. (2017, May 4). *Texas lawmakers pass bill allowing police to ask about immigration status*. USA Today. <https://www.usatoday.com/story/news/nation/2017/05/03/texas-sanctuary-cities-bill-immigration-status-police/101268244/>

Von Spakovsky, H. (2021, December 17). *Federal report shows open borders bring increased crimes and costs for taxpayers*. The Heritage Foundation. <https://www.heritage.org/immigration/commentary/federal-report-shows-open-borders-bring-increased-crimes-and-costs-taxpayers>

Wallentine, K. (2022, September 28). *Handcuffing didn't create arrest during investigatory detention*. LEXIPOL. <https://www.lexipol.com/resources/blog/handcuffing-didnt-create-arrest-during-investigatory-detention/>

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Hughes earned a Master of Science degree in criminal justice management from Sam Houston State University. He has since taught criminal justice classes as an adjunct faculty member at Texas Christian University, University of North Texas, Tarrant County College, and Columbia College, all located in Texas. As a police trainer, Hughes also teaches in the areas of search and seizure, crime scene investigation, use of force, defensive tactics, and management and supervision, among others.

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