



OFFICE OF THE DIRECTOR OF POLICE
THE UNIVERSITY OF TEXAS SYSTEM
TRAINING BULLETIN 019



Overview of Senate Bill 4
85th Texas Legislature Regular Session
Effective September 1, 2017

I. **PURPOSE**

The purpose of this training bulletin is to provide University of Texas System Police (UTSP) personnel an overview on Senate Bill 4 relating to the enforcement of state and federal laws governing immigration and to related duties and liabilities of certain persons in the criminal justice system.

This training bulletin shall be read in conjunction with ODOP/UTSP Policy 201, dated February 12, 2014, "Bias-Based Profiling and Racial Profiling".

II. **INTRODUCTION**

Senate Bill 4 (from the 85th Regular Session) amends several codes within Texas law; specifically, Government Code, Code of Criminal Procedure, Local Government Code, and Penal Code as it relates to enforcement, related duties and liabilities within the criminal justice system; provides a civil penalty; and creates a criminal offense.

III. **DEFINITIONS**

- a) "ICE" means the Immigration & Customs Enforcement branch of the Department of Homeland Security.
- b) "Officer" means a sworn peace officer of the state of Texas.
- c) "Department employee" collectively means sworn officers and civilian employees of the department.
- d) "Proof of residency" shall include a government issued photographic identification card or a document issued by the federal government indicating current legal immigrant status. It shall also include, for these limited purposes, expired, revoked or suspended state issued driver's licenses.
- e) "Detainer request" means a 48-hour hold issued by ICE based upon probable cause that a person has violated immigration restrictions and is civil in nature.
- f) "Lawful detention" means a detention based upon reasonable suspicion that the detainee has committed, is committing or is about to commit a criminal offense other than an immigration violation. For purposes of this directive the term "lawful detention" shall not include a detention of a person who is a victim or witness of an offense.
- g) "Lawful arrest" means an arrest based upon probable cause that the arrestee has committed a criminal offense other than an immigration violation.

- h) "Campus police department" means a law enforcement agency of an institution of higher education.
- i) "Immigration laws" means the laws of this state or federal law relating to aliens, immigrants, or immigration, including the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.).
- j) "Institution of higher education" means an institution of higher education as defined by Section 61.003, Education Code; or a private or independent institution of higher education as defined by Section 61.003, Education Code.

IV. LAW ENFORCEMENT ROLE AND RESPONSE

- a) During a lawful detention or during the process of arrest, officers may inquire about the detainee's immigration status.
- b) Officers should be mindful that if the detainee/arrestee has provided proof of residency, further inquiries about immigration status are not necessary. Officers may not engage in racial profiling regarding immigration status inquiries. Race-based inquiries are prohibited.
- c) During a lawful detention or during the process of arrest, officers may make inquiries to determine if the detainee/arrestee is the subject of any outstanding arrest warrants (local, state, federal or otherwise). Such inquiries may reveal that the detained or arrested person is the subject of an ICE detainer. Pursuant to Article 2.251 of the Texas Code of Criminal Procedure, "[a] law enforcement agency that has custody of a person subject to an immigration detainer request issued by United States Immigration and Customs Enforcement shall: (1) comply with, honor, and fulfill any request made in the detainer request provided by the federal government; and (2) inform the person that the person is being held pursuant to an immigration detainer request issued by United States Immigration and Customs Enforcement."

Should the person be arrested and taken into custody for a separate criminal offense notwithstanding a record of an outstanding ICE detainer, the information regarding the ICE detainer may be communicated to the booking facility, county jail or other facility into which the arrested person shall be booked.

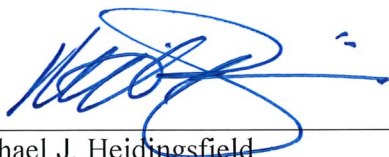
- d) During a lawful detention or during the process of arrest, officers may make verbal inquiries via the local ICE office or agent. Any officer or civilian staff who receives a verbal request to assist in an immigration enforcement action shall immediately contact their on-duty supervisor and relay the request. The supervisor will then determine the appropriate response.

- e) Officers are reminded that a person who is lawfully detained (but not under arrest) is not obligated to respond to questions, including questions about identity and immigration status. Officers shall not compel a detained person to provide identification. Officers shall not arrest a detained person simply for refusing to identify himself or herself during a lawful detention. Officers may arrest a lawfully detained person if the person intentionally gives false or fictitious identifying information to the officer. Officers are further reminded that a person under arrest is not required to answer any questions except to provide his or her name, residence and date of birth. For further information, please see Texas Penal Code Section 38.02 FAILURE TO IDENTIFY.
- f) Officers and staff shall cooperate with federal immigration officials who are investigating immigration matters.
- g) Officers and civilian staff shall not assist or cooperate with immigration authorities if the enforcement action is to take place at a place of worship.

V. **ADDITIONAL RESOURCES/REFERENCE MATERIALS**

Institution police departments should refer to the following resources for additional information.

- 1) S.B. No. 4, enrolled, available at: <https://legiscan.com/TX/text/SB4/2017>.
- 2) ODOF/UTSP Policy 201, February 12, 2014, " Bias-Based Profiling and Racial Profiling."



Michael J. Heidingsfield
Director of Police