



GOVERNOR GREG ABBOTT

January 23, 2017

The Honorable Sally Hernandez
Travis County Sheriff
P.O. Box 1748
Austin, Texas 78767

Dear Sheriff Hernandez:

On January 4, 2017, you took an oath to “preserve, protect and defend the Constitution and laws of the United States and of the State of Texas.” And, as sheriff your primary duty is to ensure the safety of the residents of Travis County. However, your recent policy directive forbidding Travis County Sheriff’s Office (TCSO) employees from cooperating with U.S. Immigration and Customs Enforcement (ICE) — except in the most limited of circumstances — betrays your oath and the residents of Travis County. I strongly urge you to reverse that policy before its effective date of February 1, 2017.

The ICE detainer program plays an integral role in ensuring that dangerous criminal aliens do not end up back on our streets. By issuing immigration detainer requests to law enforcement agencies, such as yours, ICE has an opportunity to collect and remove criminal aliens already in custody before they have the opportunity to commit additional crimes against the citizens we are sworn to protect. The federal government has determined that these criminal aliens are “threats to national security, border security and public safety,” and some of them are “aliens engaged in or suspected of terrorism or espionage.”

You offer two justifications for your actions, but both are frivolous. First, you claim you have no legal power to comply with ICE detainers. That proves too much, of course, because by your own admission, TCSO *will* honor *some* ICE detainers — for example, when the alien is charged with or convicted of capital murder. You have the exact same legal authority to honor ICE detainers for capital murder cases as you do for other crimes that you personally deem unworthy of enforcement. Second, you claim that TCSO should focus on “public safety,” while the federal government focuses on immigration enforcement. That ignores, of course, that the individuals subject to ICE detainers pose grave threats to public safety. The whole point of ICE’s detainer program is to ensure that the worst of the worst do not walk free and further jeopardize public safety.

Indeed, the potential impact of this public safety program is staggering. Since 2011, over 200,000 undocumented aliens have been booked into Texas jails. These undocumented aliens were charged with more than 559,000 criminal offenses. According to Texas Department Public Safety, those included 1,132 homicide charges; 66,687 assault charges; 16,304 burglary charges; 66,289 drug charges; 682 kidnapping charges; 39,689 theft charges; 43,723 obstructing police charges; 3,677 robbery charges; 5,903 sexual assault charges; and 8,375 weapons charges. Of the total undocumented aliens arrested in that time frame, over 139,000, or 66 percent, were identified by the U.S. Department of Homeland Security as being in the United States illegally at the time of a previous arrest.

Your shortsighted policy ignores those astounding figures and would permit TCSO employees to comply with an ICE detainer request in only the most limited of circumstances. For example, ICE issues detainers for individuals convicted of *any* felony — except those for which the alien's immigration status is an essential element of the crime. You have announced, by contrast, that large swaths of felons will not be held by TCSO. Under your reckless policy, for example, dangerous criminal aliens convicted of felonies like murder; aggravated assault; human trafficking, including child sex trafficking; aggravated kidnapping; inducing sexual performance by a child or indecency with a child; dangerous gang activities; and the manufacture or delivery of deadly substances such as heroin, methamphetamine, cocaine, GHB, PCP and ketamine will be turned loose into Travis County without permitting ICE the opportunity to collect them.

What's worse, the policy forbids TCSO employees from any sort of additional cooperation or information transfer to ICE. They are forbidden from conducting any inquiry into the immigration status of inmates or communicating with ICE regarding an inmate's release date or incarceration date in the absence of a warrant or court order. You have prohibited TCSO personnel from requesting backup from ICE, even in emergencies. And astonishingly, the policy affirmatively bans ICE from conducting any investigations at the jail or TCSO offices in the absence of a warrant or court order. This is not a pronouncement of sound public policy; it is a dangerous game of political Russian roulette — with the lives of Texans at stake.

I, too, have taken an oath to “preserve, protect and defend the Constitution and laws of the United States and of the State of Texas.” And my primary duty as governor is to ensure the safety and security of Texans. That's why last year I conditioned the expenditure of all Criminal Justice Division (CJD) grant money from my office on a commitment to enforce federal immigration law. Travis County received nearly \$1.8 million in CJD grant money over the last year based upon the commitment that federal immigration law would be enforced. Your policy is in violation of that commitment. Unless you reverse your policy prior to its effective date, your unilateral decision will cost the people of Travis County money that was meant to be used to protect them.

In the coming days, my office will reach out to you. We will ask that you reverse your policy and recommit to enforce federal immigration laws. Failure to accomplish both of those tasks

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prior to February 1, 2017, will disqualify Travis County from receiving subsequent CJD grant money.

During the pending legislative session, I will be working with the Texas Legislature to do more to protect our citizens from misguided and dangerous sanctuary policies like yours. Your reckless actions endangering the safety of Texans will provide powerful testimony for the need to strengthen Texas law. It will make clear that conditioning state funding on compliance with federal immigration laws is not enough. Rather, Texas must enact tough penalties that punish those who would put themselves above the law — and even above the community they purportedly serve.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Abbott". The signature is written in a cursive, flowing style with a large initial "G".

Greg Abbott
Governor