



# WHAT IS HAPPENING WITH THE TEXAS NATIONAL GUARD AND CBP?

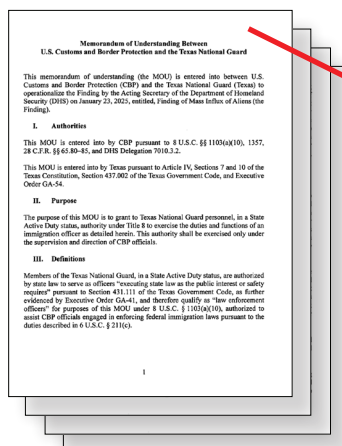
**FEB 2025**

The Texas National Guard (TXNG) has signed an [Memorandum of Understanding \(MOU\)](#) with U.S. Customs and Border Protection (CBP) authorizing TXNG members to enforce immigration laws. What does this mean? Six things to know:

1. This MOU allows the TXNG who are serving on active duty to carry out immigration enforcement.
  - Under Operation Lone Star (OLS), the TXNG has been arresting people for ‘trespassing’ and rounding up people to transfer them to CBP or TX Dept. of Public Safety for prosecution and/or deportation. Technically this has not involved TXNG doing civil immigration enforcement, even as it has overall been a key part of the machinery of overpolicing and criminalizing people in the border region.
  - With this MOU, TXNG may now also arrest and detain people simply for being without status or other immigration violations.
2. What immigration enforcement will TXNG do? Key immigration enforcement actions that the TXNG may carry out under this agreement are:
  - Investigating potential immigration violations, such as being undocumented;
  - Questioning people about their immigration status and history;
  - Arresting people for immigration violations;
  - Enforcing deportation orders by transporting people out of the country

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3. This looks a lot like the [287\(g\) program](#), (a widely reviled arrangement for allowing state and local agencies to act as immigration enforcement agents), but this MOU between CBP and TXNG is invoked under different federal laws.
  - Under this MOU, TXNG officers may stop people on the street and demand to know their immigration status. They can question or arrest people for immigration violations in any public place.
  - This will only escalate the rampant racial profiling that is endemic to immigration enforcement.
  - This MOU expands TXNG authority to most of the primary functions of CBP or ICE agents; it is not tied to local jails or local arrests like under most 287(g) agreements.
4. This agreement is only valid under the President’s finding of a “mass influx” at the border which was declared on January 24, 2025. That declaration expires after 60 days (so by March 24, 2025), but it can be renewed.
5. The TX National Guard is already [deployed to counties across the state](#) that have signed emergency declarations under Operation Lone Star.
6. Texas is responsible for all costs associated with this agreement



**AN ANNOTATED VERSION OF THIS MOU  
AVAILABLE IN THE FOLLOWING PAGES.**

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**Memorandum of Understanding Between  
U.S. Customs and Border Protection and the Texas National Guard**

This memorandum of understanding (the MOU) is entered into between U.S. Customs and Border Protection (CBP) and the Texas National Guard (Texas) to operationalize the Finding by the Acting Secretary of the Department of Homeland Security (DHS) on January 23, 2025, entitled, Finding of Mass Influx of Aliens (the Finding).

**I. Authorities**

This MOU is entered into by CBP pursuant to 8 U.S.C. §§ 1103(a)(10), 1357, 28 C.F.R. §§ 65.80–85, and DHS Delegation 7010.3.2.

This MOU is entered into by Texas pursuant to Article IV, Sections 7 and 10 of the Texas Constitution, Section 437.002 of the Texas Government Code, and Executive Order GA-54.

**II. Purpose**

The purpose of this MOU is to grant to Texas National Guard personnel, in a State Active Duty status, authority under Title 8 to exercise the duties and functions of an immigration officer as detailed herein. This authority shall be exercised only under the supervision and direction of CBP officials.

**III. Definitions**

Members of the Texas National Guard, in a State Active Duty status, are authorized by state law to serve as officers “executing state law as the public interest or safety requires” pursuant to Section 431.111 of the Texas Government Code, as further evidenced by Executive Order GA-41, and therefore qualify as “law enforcement officers” for purposes of this MOU under 8 U.S.C. § 1103(a)(10), authorized to assist CBP officials engaged in enforcing federal immigration laws pursuant to the duties described in 6 U.S.C. § 211(c).

**THIS FEDERAL LAW ALLOWS THE PRESIDENT TO DECLARE A “MASS INFLUX” AT THE BORDER AND THEN DELEGATE IMMIGRATION ENFORCEMENT AUTHORITY TO LOCAL AND STATE LAW ENFORCEMENT AGENCIES.**

**THE TEXAS NATIONAL GUARD IN ‘STATE ACTIVE DUTY’ MEANS THOSE CURRENTLY SERVING AS GUARDMEMBERS, AND THEY ARE AT THE DIRECTION OF THE GOVERNOR. THIS IS JUST LIKE HOW THE TXNG HAS BEEN DEPLOYED AT ABBOTT’S DIRECTION UNDER OPERATION LONE STAR. THOSE SAME ACTIVE DUTY NG MAY NOW ALSO BE DOING CIVIL IMMIGRATION ENFORCEMENT OFFICIALLY.**

**TEXAS STATE LAWS AUTHORIZE THE NATIONAL GUARD TO BE DEPLOYED IN VARIOUS CIRCUMSTANCES, INCLUDING TO ENFORCE LAWS AND GUARD OR TRANSPORT PRISONERS. THE STATE IS HERE ARGUING WHY THE TX NG WOULD COUNT AS ‘LAW ENFORCEMENT’ FOR PURPOSES OF DELEGATION OF AUTHORITY UNDER THE MASS INFLUX STATUTE.**

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#### IV. Effective date

This MOU is effective upon signature of both parties and expires when the Finding expires or when either party terminates the MOU. ~~If either party notifies the other of an intent to terminate, all delegated Title 8 authority terminates immediately, except to the extent necessary to transfer custody of aliens to CBP who are in the custody of authorized Texas personnel.~~ If the Finding is extended by the Secretary, or if the Secretary makes a similar Finding of an influx of aliens under 8 U.S.C. § 1103(a)(10) in the future, the parties may agree via email to extend or renew this MOU through the expiration of that Finding. To be a similar Finding, the Finding must cover all or part of Texas. CBP is responsible for notifying Texas by email of the entry, expiration, or extension of any such Finding.

#### V. Authorized immigration functions

- a) Any Texas National Guard personnel, on State Active Duty, is authorized to perform the immigration functions specified below. The Texas National Guard will decide which officers may perform these functions and provide a written list of the names and titles of such officers to CBP, to be updated at regular intervals so that CBP has accurate information concerning the Texas officers operating under this MOU. Any CBP official who is supervising a Texas National Guard official may, at any time and for any reason, withdraw authorization for that official to exercise Title 8 authority.
- b) The Title 8 authority specified below may be performed only under the supervision and direction of a CBP official. Any Texas National Guard personnel, on State Active Duty, performing Title 8 functions must have at least one CBP official embedded for the assigned mission. At all times, Texas National Guard personnel performing a Title 8 function must be able to speak to a CBP official, whether by cellular phone, radio, or other similar technology.
- c) CBP may, in its discretion, designate CBP officials to provide supervision and direction to Texas National Guard personnel pursuant to this MOU. CBP will provide the names and titles of such CBP officials in writing to Texas.
- d) The Secretary of Homeland Security has waived any applicable training requirements. But CBP may determine that authorized Texas National Guard personnel are capable of performing the duties listed herein or choose to provide training in its discretion.

**EITHER PARTY CAN TERMINATE AT ANY TIME.**

**LOGISTICS OF MOU - THE FINDING OF A "MASS INFLUX", AND THUS THE TERM OF THIS MOU, ONLY LASTS FOR 60 DAYS FROM ITS DECLARATION ON JANUARY 20TH. BUT THE FINDING OF A MASS INFLUX CAN BE RENEWED, AND THUS THIS MOU MAY BE RENEWED.**

**ANY MEMBER OF TXNG WHO IS ON STATE ACTIVE DUTY MAY BE AUTHORIZED TO CONDUCT IMMIGRATION ENFORCEMENT, BUT THE NG WILL DESIGNATE SPECIFIC OFFICERS AND PROVIDE THE LIST TO CBP. CBP CAN WITHDRAW AUTHORIZATION FOR A SPECIFIC NG OFFICIAL AT ANY TIME.**

**TXNG MUST HAVE SUPERVISION AND DIRECTION BY CBP FOR ANY IMMIGRATION ENFORCEMENT FUNCTIONS - THIS DOES NOT HAVE TO BE IN PERSON BUT COULD BE A PHONE CALL AWAY.**

**UNLIKE 287(G), THIS LAW ALLOWING FOR LEAS TO GET IMMIGRATION AUTHORITY ALSO ALLOWS DHS TO WAIVE ANY TRAINING REQUIREMENTS. CBP CAN CHOOSE TO DO SOME TRAINING IF THEY WANT.**

**CBP MAY DESIGNATE CBP OFFICERS TO SUPERVISE TXNG PERSONNEL. (BUT DOESN'T HAVE TO? THEN HOW WILL IT HAPPEN?)**

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- e) Texas National Guard personnel acting pursuant to this MOU may exercise the authorities of immigration officers, as set forth in 8 U.S.C. § 1357, and as provided in 8 U.S.C. § 1103(a)(10), and perform or exercise any other powers, privileges, or duties conferred or imposed by applicable law or regulation on immigration officers. The immigration officer functions that Texas National Guard personnel may perform under these authorities include the following:
- i. **Investigating** aliens for civil immigration violations to the same degree as a similarly situated CBP official may do so.
  - ii. **Arresting** aliens for civil immigration violations to the same degree as a similarly situated CBP official may do so.
  - iii. **Transporting** aliens to the same degree as similarly situated CBP official may do so, including transportation for the purposes of detention and transportation for the purposes of removal and/or repatriation.
- f) At any time when Texas National Guard personnel, on State Active Duty, are acting under Title 8 authority, Texas National Guard personnel are subject to the same statutes, regulations, standards of conduct, and other policies as CBP officials. To the extent that Texas policies or standards are inconsistent with CBP policies or standards, Texas personnel acting under this MOU shall, where consistent with applicable law, adhere to CBP policies and standards in exercising Title 8 authority. Texas National Guard personnel should coordinate with CBP officials when inconsistencies cannot be resolved. The complaint and resolution procedures regarding allegations of misconduct by Texas National Guard personnel under this MOU shall be the same as for a CBP official, except to the extent that CBP decides to set up an alternative complaint and resolution procedure. CBP shall record and monitor any such complaints against Texas National Guard personnel. Any Texas National Guard personnel found to have engaged in misconduct under this MOU shall face appropriate disciplinary or other action as determined by the Texas National Guard.
- g) CBP commits to work with the Department of Justice concerning the possible representation of Texas National Guard personnel acting under this MOU.

3

**THESE ARE THE SPECIFIC POWERS  
DELEGATED TO TXNG OFFICERS:**

1. **INVESTIGATING PEOPLE ABOUT  
IMMIGRATION SITUATION**
2. **ARRESTING PEOPLE FOR IMMIGRATION  
VIOLATIONS**
3. **TRANSPORTING PEOPLE TO DETENTION  
OR DEPORTATION**

**TXNG CARRYING OUT IMMIGRATION  
ENFORCEMENT ARE SUBJECT TO ALL THE  
SAME LAWS, REGULATIONS, AND POLICIES  
AS CBP OFFICERS.**

**COMPLAINT PROCEDURES FOR ACTIONS  
OF THE TXNG SHALL BE THE SAME AS  
CBP, UNLESS CBP SETS UP A DIFFERENT  
PROCEDURE.**

**THE US DOJ MAY REPRESENT TXNG IF THEY ARE ACCUSED OF WRONGDOING OR SUED FOR  
VIOLATIONS. TXNG WILL HAVE THE SAME AMOUNT OF LEGAL IMPUNITY THAT WE OFTEN SEE  
PROTECT LAW ENFORCEMENT EVEN WHAT THEY EGREGIOUSLY VIOLATE PEOPLE'S RIGHTS. IF  
TXNG ARE FOUND LIABLE FOR ANYTHING, TX WILL PAY.**

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- h) Texas National Guard personnel authorized under this MOU may be entitled to privileges, immunities, or defenses under state law for actions taken under color of state law outside the scope of this MOU. Texas National Guard personnel authorized under this MOU may be entitled to privileges, immunities, or defenses under federal law for actions taken under color of federal law within the scope of this MOU.
- i) Texas National Guard shall cooperate fully in any federal investigation related to allegations of misconduct or wrongdoing resulting from Texas National Guard personnel performance of Title 8 functions and implementation of this agreement.

#### VI. Use of equipment

Unless otherwise determined by a relevant CBP official, Texas National Guard personnel will not utilize CBP equipment for purposes of this MOU. Texas National Guard personnel will use the same equipment issued for their State Active Duty responsibilities.

#### VII. Costs and reimbursement

- a) The parties agree that Texas is responsible for all costs associated with this MOU. Texas may provide CBP access to Texas resources and property at Texas's discretion.
- b) The parties agree that Texas may be responsible for liabilities that arise as a result of the implementation of this MOU, subject to Paragraphs V(g) and V(h).
- c) Although CBP is not required to reimburse expenses, Texas will maintain records of operational expenditures incurred as a result of providing assistance under this MOU in the event CBP chooses to reimburse certain expenditures. *See, e.g., 28 C.F.R. §§ 65.80–65.85.*

#### VIII. Media policy

The parties are free to share with the media the existence of this MOU. Specific responses to media requests and/or the release of documents must be coordinated with CBP and are subject to CBP's direction and control.

**TXNG WILL USE THEIR OWN EQUIPMENT, NOT CBP'S, AND WILL BE RESPONSIBLE FOR ALL COSTS OF THE TXNG FOR PERFORMING UNDER THIS MOU. THIS IS NOT JUST ABOUT UNIFORMS AND FIREARMS, BUT THE COST OF VEHICLES, GASOLINE, FOOD, AND HOUSING FOR GUARD STATIONED AT THE BORDER, WHO OTHERWISE MAY LIVE HUNDREDS OF MILES AWAY, IS ENORMOUS. TEXAS HAS ALREADY SPENT MORE THAN \$2.5 MILLION EVERY WEEK ON OPERATION LONE STAR.**

**CBP IS NOT REQUIRED TO REIMBURSE ANY EXPENSES, BUT TEXAS WILL KEEP RECORDS OF EXPENDITURES JUST IN CASE.**

All people in the United States, regardless of immigration status, have certain **rights and protections** under the U.S. Constitution.

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[ilrc.me/protect](http://ilrc.me/protect)

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