

Local Enforcement of Immigration Laws Through the 287(g) Program

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Since 2004, the Immigration and Customs Enforcement Agency (ICE) has greatly expanded its partnerships with local police through the 287(g) program. As of March 2010, more than 1,075 local officers have been trained and certified through the program under the 67 active Memoranda of Agreement (MOAs) in 24 states. However, while the number of MOAs has increased, the numerous problems surrounding them have also become more apparent. Recent reports have found that 287(g) agreements are costing localities millions to implement while ICE provides little oversight and support to the program. Additionally, crime-solving activities are being compromised, the trust between police and community is eroding, and accusations of racial profiling and civil rights violations are on the rise. Furthermore 287 (g) agreements are being used as political tools that interfere with the kind of true community policing that protect and serve our communities.

What is a 287(g) MOA?

- Section [287\(g\) of the INA](#) [1] allows the Secretary of Homeland Security to enter into agreements that delegate immigration powers to local police, but only through negotiated agreements, documented in Memoranda of Agreement (MOAs). These MOAs are negotiated between the Department of Homeland Security (DHS) and the local authorities, and include delegation of authority to a limited number of police officers. While each MOA is different, any officer deputized under the program must attend a five-week immigration law training course, and all deputized local law enforcement officials are supposed to be under ICE supervision.

ICE Does Not Provide Guidance, Direction, or Supervision

- An April 2010 [report](#) [2] by the **DHS Office of Inspector General (OIG)** found that ICE and its local law enforcement partners have not complied with the terms of their 287(g) MOAs, that the standards by which deputized officers are evaluated are not in line with the stated objectives of the 287(g) program, that the program is poorly supervised by ICE, and that additional oversight is necessary.
- A January 2009 **Government Accountability Office (GAO)** [report](#) [3] found that ICE has failed to articulate the 287(g) program's objectives and has not consistently articulated how local partners are to use their 287(g) authority. While ICE officials have stated that the purpose of the program is to address serious crime, such as narcotics smuggling, ICE has never documented this objective, and as a result, local police have used their 287(g) authority to detain and deport immigrants for traffic violations and other minor crimes.
- While ICE has a statutory responsibility to supervise all 287(g) MOAs, GAO found that **ICE has not consistently supervised its partners**. This is consistent with a February 2009 report by [Justice Strategies](#) [4] analyzing the jurisdictions with 287(g) agreements. The [report](#) [5] found that there is very little ICE oversight of the 287(g) partnerships and that ICE personnel do not lead or directly oversee 287(g) arrests. When faced with criticism that he had not followed the requirements of his MOA, Sheriff Joe Arpaio of Maricopa County, Arizona stated, "Do you think I'm going to report to the federal government? I don't report

to them.”

Local Police Do Not Get Money from ICE

- **Partnerships cost localities millions.** While ICE covers the cost of training deputized local officers, ICE does not pay for implementation of the program or any lawsuits that may arise due to civil rights violations. Local communities are responsible for the high costs related to the immigration enforcement activities.
- For example, a report by the [University of North Carolina](#) [6] found that the **total cost for the first year of operating the 287(g) program in Mecklenburg County is estimated at \$5.5 million. Basic direct costs for the first full year in Alamance County is \$4.8 million.** Beyond these costs, there are also indirect expenses, including litigation fees, reduction in local business revenue, lower sales tax revenue, and higher costs of services and goods.
- A report by the [Brookings Institute](#) [7] found that Prince William County, VA **had to raise property taxes and take from its “rainy day” fund to help fund their 287(g) program. The county’s immigration enforcement program, which cost \$6.4 million in its first year, is projected to cost \$26 million over five years.** To cut costs, the county slashed \$3.1 million from its budget—money that was intended to buy video cameras for police cars to protect against allegations of racial profiling.
- **Arizona’s notorious Sheriff Joe Arpaio has plunged his department deep into debt.** Sheriff Joe Arpaio of Maricopa County, Arizona has transformed his police department into an immigration-enforcement agency, gaining international notoriety in the process. A July 2008 *East Valley Tribune* [series of articles](#) [8] found that the Sheriff’s Office created a \$1.3 million deficit in just three months, much of it due to overtime.

287(g) Partnerships Net Few Violent Criminals

- **Targeting the undocumented, not criminals.** A [report](#) [9] from the University of North Carolina at Chapel Hill and the North Carolina ACLU found that while the 287(g) partnership program with DHS was intended to target immigrants convicted of violent crimes, human smuggling, gang/organized crime activity, sexual-related offenses, narcotics smuggling, and money laundering, the federal/local partnerships are actually being used to **“purge towns and cities of ‘unwelcome’ immigrants.”**
- **Arresting illegal drivers.** According to a report by the [University of North Carolina](#) [6], traffic violations are the most common state charge for individuals incarcerated through the 287(g) program, representing 32.7% of the total charges. **In Gaston County, 56.5% were traffic violations, and in Alamance County, 40.7% were traffic violations.** The report found that 86.7% of all individuals booked through 287(g) were charged with misdemeanors, while only 13.3% were charged with felonies.
- **Arresting victims and fishermen.** In February 2008, a Hispanic [gunshot victim](#) [10] in Alamance County, NC called 911 and was arrested and deported. The reason for the arrest? Providing the wrong address for the crime scene. In August 2008, five Hispanic men were arrested for [fishing without a license](#) [6] by a wildlife officer and later processed for deportation. Students have been arrested in schools for pranks.
- **Few major criminals arrested by Arpaio in Arizona.** Despite the time and energy spent

on immigration enforcement, the [East Valley Tribune](#) [8] found that Sheriff Joe Arpaio has had little success building cases against violent immigrant offenders or those at the top of the smuggling rings. In 2006-2007, Maricopa County sheriff deputies arrested 578 illegal immigrants in the course of traffic stops, and of those, **498 faced a single charge of conspiracy to smuggle themselves.**

287(g) MOAs Threaten Community Safety

- **Climate of fear hinders police investigations.** The authors of the [North Carolina report](#) [9] found that 287(g)'s have "created a climate of racial profiling and community insecurity" in communities across North Carolina. Law enforcement officials have stated time and time again that trust with immigrant communities is crucial to preventing and investigating crimes and leads to safer communities. Anecdotal evidence from North Carolina points to undocumented residents being less likely to contact law enforcement to report crimes.
- **Taking resources away from crime fighting.** While Arizona Sheriff Arpaio has diverted resources to immigration enforcement, [response times to 911 calls have increased](#) [8], arrest rates have dropped, and thousands of felony warrants have not been served.
- **Arpaio Making Maricopa County less safe for all residents.** The conservative [Goldwater Institute](#) [11] published a report documenting how the Maricopa County Sheriff's Office, under the leadership of Sheriff Arpaio and armed with a 287(g) MOA, has failed to serve and protect his community. The Goldwater Institute found that, though the MCSO budget has increased at four times the rate of the county's population, violent crimes increased nearly 70%, and homicides increased 166% between 2004 and 2007.

Community Policing is Hindered when Local Law Enforcement Officers Are Seen as ICE Agents

- The **International Association of Chiefs of Police (IACP)** [12], the nation's premier law enforcement association, has stated that "local police agencies depend on the cooperation of immigrants, legal and illegal, in solving all sorts of crimes and in the maintenance of public order. Without assurances that they will not be subject to an immigration investigation and possible deportation, many immigrants with critical information would not come forward, even when heinous crimes are committed against them or their families."
- The **Major Cities Chiefs Association (MCCA)** [13], a group of police chiefs from the sixty-four largest police departments in the United States and Canada, similarly has written: "without assurances that contact with the police would not result in purely civil immigration enforcement action, the hard won trust, communication and cooperation from the immigrant community would disappear. Such a divide between the local police and immigrant groups would result in increased crime against immigrants and in the broader community, create a class of silent victims and eliminate the potential for assistance from immigrants in solving crimes or preventing future terroristic acts."

287(g) MOAs Result in Mistakes and Racial Profiling

- **Police make costly mistakes.** Immigration law is complex and constantly changing, but deputized officers only receive several weeks of immigration law training. Involving local police in immigration law enforcement activities is likely to lead to mistakes and costly litigation. In May 2007, under a 287(g) agreement, a developmentally disabled [U.S. citizen](#) [14] was mistakenly identified as a Mexican national and transferred to an ICE

detention center and was later deported.

- **People targeted for their ethnicity, not criminal activity.** Because it is difficult to immediately determine an individual's immigration status, communities are concerned that police resort to targeting people based on their ethnicity and appearance. According to a report by the [ACLU of Georgia](#) [15], racial profiling in Gwinnet County has been exacerbated by the 287(g) program. The ACLU received complaints from drivers, pedestrians, and Gwinnett community members showing that police officers are targeting immigrants and people of color for stops, searches, and interrogations.

Local Partnerships with ICE Focus on Latinos and Politics, Not Criminals

- **Justifying 287(g) agreements as a crime-stopping measure does not hold water.** Some localities claim they need a partnership with ICE to combat rising crime rates. However, the [University of North Carolina](#) [6] found no evidence that Hispanic population growth or greater rates of immigration in North Carolina counties are associated with higher crime rates. In fact, violent crime has decreased since 1993 in counties experiencing the largest volume of immigrant entrants. Similarly, [Justice Strategies](#) [4] found that 61% had a violent crime index lower than the national average, and 55% witnessed an overall decrease in violent crimes from 2000 to 2006. Furthermore, 61% had a property crime index lower than the national average, and 65% saw an overall decrease in property crimes from 2000 to 2006.
- **287(g) MOAs are found in areas where the Latino population is growing.** [Justice Strategies](#) [4] found that 87% of the jurisdictions with 287(g) agreements had a rate of Latino population growth higher than the national average. The [Brookings report](#) [16] on Prince William County, VA similarly found high Latino population growth rates. It appears that MOAs are actually correlated to growth in the Latino population, not high crime rates.
- **287(g) agreements are being used as a political tool.** Some politicians think of 287(g) as a winning campaign issue, not a crime-stopping tool. [Justice Strategies](#) [4] found that 62% of the local ICE partners were county sheriff departments—sheriffs are local elected officials who need continued public support to remain in office. [Brookings](#) [16] noted that the Prince William County, VA resolution was passed days before Election Day, when seven of the eight county supervisors were up for reelection.

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[1] http://www.ice.gov/partners/287g/Section287g_faq.htm

[2] http://www.dhs.gov/xoig/assets/mgmtrpts/OIG_10-63_Mar10.pdf

[3] <http://www.gao.gov/new.items/d09109.pdf>

[4]

<http://www.justicestrategies.org/2009/local-democracy-ice-why-state-and-local-governments-have-no-business-federal-immigration-law-en>

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- [5] <http://www.justicestrategies.org/sites/default/files/JS-Democracy-On-Ice.pdf>
- [6] http://isa.unc.edu/migration/287g_report_final.pdf
- [7] http://www.brookings.edu/events/2009/0226_immigration.aspx
- [8] http://www.eastvalleytribune.com/page/reasonable_doubt
- [9] <http://acluofnc.org/?q=new-study-finds-dramatic-problems-287g-immigration-program>
- [10] <http://www.thetimesnews.com/news/martinez-10498-jones-shooting.html>
- [11] http://www.goldwaterinstitute.org/Common/Img/Mission_Unaccomplished.pdf
- [12] <http://www.theiacp.org/About/PressCenter/tabid/81/Default.aspx?id=867&v=1>
- [13] <http://www.majorcitieschiefs.org/index.shtml>
- [14] <http://www.laweekly.com/2007-08-09/news/pedro-guzman-s-return/>
- [15] <http://www.acluga.org/GwinnettRacialReportFinal.pdf>
- [16] http://www.brookings.edu/reports/2009/0225_immigration_singer.aspx
- [17] http://www.immigrationpolicy.org/sites/default/files/docs/287g_fact_sheet_040210.pdf