

Section 287(g), Immigration and Nationality Act; Delegation of Immigration Authority

A Law Enforcement Partnership

Terrorism and criminal activity are most effectively combated through a multi-agency/multi-authority approach that encompasses federal, state and local resources, skills and expertise. State and local law enforcement play a critical role in protecting our homeland security because they are often the first responders on the scene when there is an incident or attack against the United States . During the course of daily duties, they will often encounter foreign-born criminals and immigration violators who pose a threat to national security or public safety.

Section 287(g) of the Immigration and Nationality Act

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA), effective September 30, 1996, added Section 287(g), performance of immigration officer functions by state officers and employees, to the Immigration and Nationality Act (INA). This authorizes the secretary of the U.S. Department of Homeland Security (DHS) to enter into agreements with state and local law enforcement agencies, permitting designated officers to perform immigration law enforcement functions, pursuant to a Memorandum of Agreement (MOA), provided that the local law enforcement officers receive appropriate training and function under the supervision of sworn U.S. Immigration and Customs Enforcement (ICE) officers.

State and local patrol officers, detectives, investigators and correctional officers working in conjunction with ICE gain: necessary resources and authority to pursue investigations relating to violent crimes, human smuggling, gang/organized crime activity, sexual-related offenses, narcotics smuggling and money laundering; and support in more remote geographical locations.

Memorandum of Agreement

The MOA defines the scope and limitations of the authority to be designated. It also establishes the supervisory structure for the officers working under the cross-designation and prescribes the agreed upon complaint process governing officer conduct during the life of the MOA. Under the statute, ICE will supervise all cross-designated officers when they exercise their immigration authorities. Once the scope of limitations of the MOA has been reached, the assistant secretary of ICE, and the governor, a senior political entity, or the head of the local agency may sign the MOA, requesting the cross-designation.

Success Stories

ICE currently has 287 (g) MOAs with the Alabama Department of Public Safety/State Police, the Arizona Department of Corrections and the Florida Department of Law Enforcement. ICE also has MOAs with the county sheriff's departments in Maricopa County, Ariz.; Los Angeles, Orange, Riverside, and San Bernardino counties, Calif.; Cobb County, Ga.; Alamance, Gaston and Mecklenburg counties, N.C.; and Davidson County, Tenn.

287 (g) partnership success stories include use of the program in the field and with persons already in custody:

North Carolina

- The Mecklenburg County Sheriff's Office received its 287 (g) authority in February 2006. Sherriff's deputies in county jail facilities check the immigration status of all non-U.S. born arrestees. According to county documents, in the first nine months of the program, deputies examined over 1,600 arrestees, placing 853 of them in deportation proceedings. The county reports that the success of their program has resulted in other law enforcement agencies contacting them for information about the 287(g) program.

Alabama

- 287 (g) trained Alabama state troopers, working with motor vehicle licensing stations throughout the state, check the immigration status of all foreign nationals applying for driver's licenses. The partnership training from ICE enabled these troopers to identify 27 individuals who were later convicted of federal charges after using fraudulent documents in an attempt to obtain Alabama driver's licenses. In addition, 13 of these individuals were convicted of state charges including narcotics violations and possession of forged instruments.
- Though use of the program, troopers have identified and arrested, among others, a Laotian citizen determined to be a registered sex offender and a previously deported Mexican citizen who was originally convicted of drug trafficking.
- On two separate occasions in the fall of 2006, 287(g) certified state troopers identified and arrested illegal aliens (one from Mexico and the other, the Bahamas) and charged them with Criminal Possession of a Forged Instrument. Form I-247 Immigration Detainers were filed with the respective holding jails.
- On November 18, 2006, a 287(g) cross-designated state trooper encountered a prisoner who was in custody after pleading guilty to Theft of Property 1st Degree, a Class B Felony. The trooper determined that he was removable as an alien who had been convicted of a crime involving moral turpitude. Upon the prisoner's release from the Cullman County jail, he was remanded to ICE as a mandatory custody alien not eligible for bond.

The 287 (g) partnerships continue to generate hundreds of investigative leads, arrests and convictions for a variety of federal and state charges.

Criminal Alien Program (CAP)

Under current MOAs, 287(g) participants in Arizona , California , and North Carolina currently ensure that criminal aliens incarcerated within federal, state and local facilities are not released into the community upon completion of their sentences. ICE is working to expand 287(g) authority to local and county correctional facilities that are not operational within normal ICE jurisdictions. The expansion of the 287(g) program into smaller county and local correctional facilities will act as a force multiplier for CAP and have a positive impact on this important program.

Officer Selection Requirement

U.S. citizen;
 Current background investigation completed;
 Minimum two years experience in current position; and
 No disciplinary actions pending.

Training Requirements

ICE offers two training programs including a five-week program for field level law enforcement officers and a four-week program for correctional personnel. The U.S. Immigration and Customs Enforcement Academy sets standards and testing. Certified instructors conduct the training.

Contact Information

For more information on Section 287(g) of the Immigration and Nationality Act, please visit the [FAQ](#) page or you may request an information packet via the [Section 287g](#) form.

U.S. Immigration and Customs Enforcement (ICE) was established in March 2003 as the largest investigative arm of the Department of Homeland Security. ICE is comprised of five integrated divisions that form a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities.

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