



Fact Sheet

Section 287 (g) Immigration and Nationality Act

August 16, 2006

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A Law Enforcement Partnership

Terrorism and criminal activity are most effectively combated through a multiagency/ 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.

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 Understanding (MOU), 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.

The cross-designation between ICE and state and local patrol officers, detectives, investigators and correctional officers working in conjunction with ICE allows these local and state officers:

- necessary resources and latitude to pursue investigations relating to violent crimes, human smuggling, gang/organized crime activity, sexual-related offenses, narcotics smuggling and money laundering; and
- increased resources and support in more remote geographical locations.

Memorandum of Understanding

The MOU 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 MOU. Under the statute, ICE will supervise all cross-designated officers when they exercise their immigration authorities. Once the scope of limitations of the MOU 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 MOU, requesting the cross-designation.

287(g) Participants

In 2002, the Florida Department of Law Enforcement (FDLE), entered into the first agreement under Section 287(g). Thirty-five law enforcement officers, consisting of FDLE agents and state and local officers, participated in the training program. After completion of the training program, they were assigned to seven Regional Domestic Security Task Force locations throughout Florida.

In November 2003, ICE and the Alabama Department of Public Safety (ALDPS) signed an MOU to provide immigration authority to 21 Alabama state troopers. These state troopers also received extensive training in immigration and nationality law and procedures and now have the authority to determine whether or not an individual is an illegal alien and can be removed from the U.S. in addition to their normal duties.

These initiatives have been very successful and have generated hundreds of investigative leads, arrests and convictions for a variety of federal and state charges. These included possession of Fraudulent Alien Registration and Social Security cards, U.S. birth certificates and the arrest of criminal aliens wanted for felonies.

Since then, ICE has signed MOUs with agencies in Arizona, North Carolina and California and provided cross-designation training to Arizona Department of Corrections officers and Los Angeles and San Bernardino County jail custody specialists. ICE also signed another MOU and trained additional staff for the FDLE and ALDPS.

Criminal Alien Program (CAP)

Under current MOUs, 287(g) participants in Arizona and California 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.

Success Stories

- Florida's Collier County deputy sheriffs arrested 20 individuals attempting to purchase fraudulently obtained state drivers licenses. All individuals were convicted on state driver license fraud charges and the 18 illegal aliens were removed from the U.S. after serving their sentences.
- In Alabama, 27 individuals were convicted of federal charges after attempting to obtain an Alabama drivers license using fraudulent documents. Thirteen individuals were convicted of state charges that include narcotics violations and possession of forged instruments.
- In November, 2005, the Arizona Department of Corrections (ADC) began processing alien inmates at their Intake Center as part of the 287(G) program. By processing aliens who met the criteria for early release and turning them over to ICE for removal, the ADC has realized a cost savings of \$2,985,655 and a savings of 53,135 bed days.

Officer Selection and Training Requirement

Officers must be U.S. citizens; have completed current background investigations; have a minimum of two years of experience in their current position; and have no disciplinary actions pending.

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.

ICE

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