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ACLU RESEARCH REPORT

# License to Abuse

How ICE's 287(g) Program Empowers Racist Sheriffs and Civil Rights Violations

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# Acknowledgements

The report is a product of the American Civil Liberties Union (ACLU). The principal author is Naureen Shah, Senior Legislative Counsel and Advisor at the National Political Advocacy Department (NPAD). Additional authors and researchers include Brian Tashman, Deputy Director at NPAD, Equality Division, and Kyle Berlin, NPAD postgraduate intern.

We are grateful to the community activists, directly impacted individuals, and grassroots organizations who have led the fight against 287(g) for more than a decade.

The authors wish to thank multiple reviewers within the ACLU who contributed invaluable insight and expertise to this report: Spencer Amdur, Staff Attorney at the Immigrant Rights Project; Jonathan Blazer, Director of Border Strategies; Eunice Cho, Senior Staff Attorney at the National Prison Project; Corene Kendrick, Deputy Director of the National Prison Project; Carl Takei, Senior Staff Attorney at the Trone Center for Justice and Equality; Cynthia Roseberry, Deputy Director at NPAD, Justice Division; and Chris Anders, Deputy National Political Director and Federal Policy Director at NPAD. Emily Greytak, Director of Research, contributed greatly to the production and release of the report.

We are additionally grateful for the support, information, and review provided by ACLU state affiliates, specifically: Dillon Nettles, ACLU of Alabama; Megan Edge, ACLU of Alaska; Victoria Lopez and Yvette Borja, ACLU of Arizona; Amien Kacou, ACLU of Florida; Chris Kaiser, ACLU of Louisiana; Nick Steiner, ACLU of Maryland; Laura

Rótolo, ACLU of Massachusetts; Rose Godinez and Jane Seu, ACLU of Nebraska; Stefania Arteaga and Ann Webb, ACLU of North Carolina; Zachary Ahmad, Melanie Trimble and Frank Donegan, New York Civil Liberties Union; Megan Lambert, ACLU of Oklahoma; Allen Chaney, ACLU of South Carolina; Brandon Tucker, ACLU of Tennessee; Edgar Saldivar and Kate Huddleston, ACLU of Texas; and Timothy Muth, ACLU of Wisconsin.

Multiple ACLU interns provided invaluable research support throughout the production of this report, including Aena Khan, Cynda Williams, Galia Newberger, Gia Khanna, Imani Cruz, Lilian Sanchez, and Roshni Saleem Chagan. We also wish to thank Jade Roberson, administrative assistant, Equality Division.

Additionally, the authors thank organizations whose research and guidance was vital to the report, including Dr. Austin Kocher of the Transactional Records Access Clearinghouse (TRAC) at Syracuse University; Ethan Fauré of Political Research Associates; Miranda Keating, Alissa Ellis, and Swathi Shanmugasundaram of American Oversight; Sarah Rich and Rachel Goldwasser of the Southern Poverty Law Center; Devorah Adler and Ethan Schwartz of Beehive Research; and Sonia Lin of the We Are Home Campaign.

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# Executive Summary

*On the evening of July 7, 2018, Sara Medrano was driving her daughter and grandkids to pick up laundry detergent just outside of Frederick, Maryland, when she was pulled over – and almost separated from her family for good.*

“While I was driving on Route 15, I noticed that a police officer was following me,” she said. “When I saw those red and blue lights, I stopped at the side of the road but left the car’s engine on. My heart was beating fast, I felt panicky at being stopped by police without cause. An officer came out of the car, dressed in a brown uniform with a gun on his belt. He approached and asked me for my license and registration, never once introducing himself. He didn’t explain why he stopped me and he talked to me in English.” Medrano, who was learning English at the time, asked to speak with someone in Spanish.

Another officer approached and told her she had a burnt-out taillight. “But before I could ask whether it was the right or the left, he asked where I was from,” she said. “I told him that I had lived in Fredrick for more than 13 years.”

“He watched me closely and finally he asked, ‘Are you a citizen or resident?’ I didn’t respond. He told me I had an immigration problem and that I had to turn off the car, that I would be there for a while waiting for immigration to come and get me.”

“I was so scared thinking that this stop would be the last moment that I would have with my grandchildren and my daughter,” Medrano recalls.<sup>1</sup> She feared she would be deported. Nearly an hour later, a deputy returned to her car with a written warning for her

taillight and let her go. He had no basis to arrest her, and immigration authorities were not available to take custody of her. In this sense, she was lucky. Many similar encounters have resulted in people being detained and deported, taking them away from their families.<sup>2</sup>

Medrano returned home and tested her car’s taillights; both were working just fine. The real reason she was stopped? Medrano, who has never been stopped by police before or since, believes it was the color of her skin.

The racial profiling that Medrano experienced is part of a pattern of conduct by the Frederick County Sheriff’s Office, as the ACLU of Maryland documented in a lawsuit filed in 2019.<sup>3</sup> And it is a prime example of the racial profiling that rights groups have long criticized as endemic to collaborations between local law enforcement and federal immigration enforcement, particularly the 287(g) program.

The 287(g) program, which draws its name from the section of the Immigration and Nationality Act that authorizes it, is a set of partnerships between U.S. Immigration Customs and Enforcement (ICE) and state and local law enforcement agencies.<sup>4</sup> The program taps state and local law enforcement



agencies to assist in identifying people for arrest and potential deportation.

In Medrano’s case, and many others, the program emboldens state and local law enforcement officers to racially profile – stopping and arresting people on the pretext of traffic violations or other minor offenses – for the actual purpose of putting them in a pipeline to deportation and separation from their families.

Medrano’s was not the first lawsuit Fredrick County’s sheriff faced for harassing immigrant community members.<sup>5</sup> And it will likely not be the last: the sheriff’s office remains a 287(g) partner to the Biden administration, despite its sordid civil rights record and the sheriff’s animosity toward immigrants. As this report documents, the same is true of dozens of law enforcement agencies around the country.

Photo by MANDEL NGAN/AFP via Getty Images



President Trump speaks at the White House.

Indeed, from its earliest days, the 287(g) program has been a vehicle for racist, anti-immigrant politicians, rather than the bona fide public safety measure its proponents have claimed. By the end of the Obama administration – following damning Department of Justice civil rights investigations that spurred reform – only 34 local agencies remained in the program. Yet today, following the Trump administration’s recruitment efforts, the Biden administration is overseeing a 287(g) program with more than 140 state and local law enforcement agency partnerships nationwide.

## Report Purpose and Methods

In June 2021, the ACLU initiated a review of all 142 state and local law enforcement agencies that the Biden administration describes as its partners in the 287(g) program. It is the first in-depth, comprehensive review of the character and conduct of the administration’s local 287(g) partners, both under the Biden administration and previous administrations.

Drawing from desk research and legal analysis, this report presents an overview of the 287(g) program, including its history, current practices, and impact on immigrant populations and local communities. For a comprehensive examination of records and practices of each of the 287(g) partner agencies, we collected data using multiple methods and conducted a content analysis to assesses each agency on the following criteria: racial profiling and other civil rights violations, poor conditions in jails and other detention sites, endorsement of anti-immigrant statements, and support for inhumane immigration and border policies. This report provides a first-of-its-kind in-depth examination of these local 287(g) agencies through descriptive statistics and qualitative data. A supplement to this report employs a case study approach to highlight the 54 most problematic agencies in even greater detail.

## Key Findings

Through a close review of the Trump administration’s record, we found that when it expanded the program exponentially, it used anti-immigrant hate as its selling point. Nearly all of these sheriffs remain partners to the Biden administration, despite President Biden’s commitment to “end all the agreements entered into by the Trump Administration” and the efforts of many of these sheriffs to embarrass the Biden administration and thwart its immigration policies.

We also found that current 287(g)-participating agencies and their leadership often have deeply troubling records:

- At least 59% of participating sheriffs have records of anti-immigrant, xenophobic rhetoric, contributing to a continued climate of fear for immigrants and their families, undermining public safety and contributing to the risk of racial profiling;
- At least 55% of sheriffs involved in the program have made statements advocating inhumane immigration and border enforcement policies and promoting the misinformation and false claims on which they are based;
- At least 65% of 287(g)-participating agencies have records of a pattern of racial profiling and other civil rights violations, including excessive use of force;
- At least 77% of 287(g)-participating agencies are running detention facilities with serious and extensive records of inhumane conditions, a fact that implicates the 287(g) program because when the administration partners with these facilities, it tacitly sanctions these conditions.

Studies of the 287(g) program have long shown that it undermines public safety by decreasing trust in local law enforcement and diverting resources away from investigation of serious crimes,<sup>6</sup> and many law enforcement leaders have joined civil rights groups in calling for its termination.<sup>7</sup> As a candidate for president, Biden stressed the need to rebuild trust between law enforcement and immigrant communities so that immigrant victims of serious crimes, such as domestic violence, can secure police protection without risking deportation and separation from their families.<sup>8</sup>

Our findings indicate that in many cases, the administration is empowering law enforcement officials who are unabashedly anti-immigrant or racist. Far from having simple political disagreements over policies, several participating sheriffs have decided to stoke racist tropes and baseless fears of a supposed immigrant invasion of the United States, often by spreading misinformation about the Biden administration's current practices. Based on unfounded legal arguments, some of them even believe that the sheriff has nearly unconstrained authority and can effectively nullify federal policies.

## Implications and Recommendations

For the Biden administration, the continuation of these partnerships is not only irrational and counterproductive to its goals, it is an embarrassment. At a bedrock level, many of the Biden administration's 287(g) partners have records of conduct that are totally antithetical to the Biden administration's vision for the country. By partnering with these sheriffs, the Biden administration is giving them credibility and undermining its own efforts to repair the harm inflicted by the Trump administration's anti-immigrant rhetoric and policies, and is arguably colluding in the very civil and human rights violations the president has denounced as contrary to this country's best values as well as the rule of law.

Photo by Devi Bones/Shutterstock



President Biden previously pledged to "end the Trump administration's historic use of 287(g) agreements."

*From the Biden-Harris campaign website:*

## **End the Trump Administration's historic use of 287(g) agreements.**

Section 10 of President Trump's January 25, 2017 executive order sought to deputize state and local law enforcement to perform the function of an immigration officer. These types of actions undermine trust and cooperation between local law enforcement and the communities they are charged to protect. As President, Biden will end all the agreements entered into by the Trump Administration, and aggressively limit the use of 287(g) and similar programs that force local law enforcement to take on the role of immigration enforcement.

The ACLU has fought to end the 287(g) program for more than a decade, working alongside dozens of national and local immigrant rights organizations to highlight the racial profiling, civil rights abuses, and erosion of community trust that it spawned. We were part of the historic fight to spotlight and end abuses against immigrants and other people of color in Maricopa County, Arizona, by Sheriff Joe Arpaio, whose sordid record remains a paradigmatic example of why the 287(g) program needs to end. Many of the criticisms we made a decade ago about the program — abysmal oversight by the Department of Homeland Security (DHS), racial profiling, costs to community relationships and public safety — remain true today.

Meanwhile, the movement against ICE collaboration has gained ground: voters in recent contests elected sheriffs who carried out pledges to end 287(g) agreements in major counties in California, Georgia, Nevada, North Carolina, South Carolina, and Texas; more law enforcement officials have spoken out against the program for undermining safety and trust; and state lawmakers have introduced legislation to bar local and state agencies from participating in the 287(g) program. Ending the 287(g) program remains a high priority of the

immigrant rights movement and community advocates across the country.<sup>9</sup>

The Biden administration still has the opportunity to move forward, with support from Congress and community leaders across the nation, and end the program. We urge the Biden administration to abandon the 287(g) program altogether as a broken, racist relic of the past and an unproven, dubious, and often counterproductive public safety measure. Short of that, DHS should engage in a review of each participating law enforcement agency's record to determine whether termination is appropriate — a review that has been recommended by the DHS Office of Inspector General since at least 2010.<sup>10</sup>

In addition to documenting the problematic records of all 287(g)-participating agencies, our report identifies 54 287(g)-participating state and local law enforcement agencies with records so egregious that their continued participation is a damning indictment of the Biden administration's commitment to immigration reform. These are the first agreements the administration should end. We offer these additional specific recommendations:

### **To the Biden administration:**

- Commit to ending the 287(g) program, beginning by terminating agreements DHS entered into with the 54 law enforcement agencies that we identify in this report as having egregious records of civil rights violations, abusive jail and prison conditions, and/or anti-immigrant statements.
- Until the program is completely wound down:
  - Direct the DHS Office for Civil Rights and Civil Liberties (CRCL) to conduct a review of each remaining participating law enforcement agency's record to determine whether immediate termination is appropriate, including an opportunity for stakeholders to contribute reports, comments, and testimonials;
  - Require that any state and local agency seeking to enter into or renew a 287(g)



agreement demonstrate that it has provided the public with information about the prospective agreement and a meaningful opportunity to offer input; and

- Require that all participating law enforcement agencies collect data on the race and ethnicity of the motorist and passengers in all traffic stops, as well as the reason for the stop and the result of the stop, to address racial profiling.

We urge the Biden administration to abandon the 287(g) program altogether as a broken, racist relic of the past.

### **To Congress:**

- End or significantly reduce federal funding for the 287(g) program;
- Use the appropriations process to require that DHS terminate agreements with law enforcement agencies with records of civil rights violations; and
- Require that DHS exercise more robust oversight over participating law enforcement agencies, that ICE publicly report on alleged civil rights violations and other complaints by members of the public, and hold public meetings with advance notice.

### **To state and local governments:**

- Repeal state or local laws that purport to require collaboration with ICE, including those that local sheriffs have interpreted as requiring they join the 287(g) program; and
- Enact state laws and local ordinances that increase public safety for all by requiring that state and local law enforcement end participation in the 287(g) program and other forms of collaboration with federal immigration enforcement.

# Methodology

Drawing on desk research and legal analysis, this report first provides an overview of the 287(g) program, including its administrative history, its current functioning, and its impact on immigrant populations and broader communities.

The second part of the report details the findings and implications of a new study on the 287(g) program conducted by the ACLU. The study builds upon existing research on the 287(g) program by examining the records of state and local agencies participating in the program, with specific attention to evidence of civil rights and civil liberties violations. Both institutional records (e.g., detention center conditions) and personnel practices (e.g., sheriff public statements) were included. We conducted a mixed-method study with two main phases:

Phase 1) Review and assessment of all 142 agencies participating in the 287(g) program at the time of data collection, including 132 sheriffs' agencies and 10 other participating agencies, including departments of corrections and police departments.<sup>11</sup>

Phase 2) An in-depth analysis of a smaller number of these agencies (54) deemed most egregious in their violations using a case-study style approach.

## Data Collection

We used several methods to obtain the records of participating 287(g) agencies, including:

- Soliciting information from ACLU affiliates located in the 25 states<sup>12</sup> with 287(g) agreements regarding the civil rights regarding the civil rights

records of participating agencies through email requests and periodic meetings.

- Identifying previous litigation by ACLU National and ACLU affiliates (hereafter “ACLU”), analyses, reports, public statements, and correspondence relating to 287(g), such as letters sent to the DHS Office for Civil Rights and Civil Liberties during previous administrations outlining the unfitness of particular agencies for a 287(g) partnership.<sup>13</sup>
- Drawing on documents produced in response to previous public records requests by the ACLU and other organizations, as well as ICE’s Freedom of Information Act library.
- Conducting targeted internet searches using keywords in conjunction with the agency name (e.g., “Goliad County Sheriff civil rights,” “Polk County Sheriff jail conditions”); relevant information was identified from a wide variety of sources, including media reports (local, national, and international); long-form media investigations; sheriffs’ department websites and social media pages; government oversight investigations; congressional hearing transcripts; academic and policy reports; and court cases.
- Utilizing research conducted by nonprofit government tracking projects (e.g., Syracuse University’s Transactional Records Access Clearinghouse, Texas Justice Initiative, Police Scorecard, Political Research Associates) to gather information on sheriffs, their actions, and the 287(g) programs they run.

These various data collection methods resulted in several thousand documents, the majority of which were news reports and prior documentation by the ACLU.

## Coding and Analysis

### Phase 1

All data was reviewed and coded based on the following criteria:

- **Racial profiling and other civil rights violations**, including multiple incidents of excessive use of force, Fourth Amendment violations, racialized police violence, and conduct that chills First Amendment-protected expression;
- **Poor conditions in jails and other detention sites** and mistreatment of people in state and local custody, including multiple incidents of abuse by deputies, jail deaths, overcrowding, and COVID-19 outbreaks;
- **Anti-immigrant statements by sheriffs currently or recently in office, or by staff when sheriffs fail to condemn it**, consisting of at least one instance of equating immigrants with criminality, spreading misinformation about supposed threats posed by immigrants, and making false claims about the U.S. border and immigration system; and
- **Advocacy of inhumane immigration and border policies**, particularly on the federal level, including by opposing Biden administration reforms and promoting a return to certain brutal Trump-era policies.

For each of the above four criteria, an agency was coded as either meeting that criterion (“yes”) or not meeting that criterion (“no”) based on whether documentable evidence was found for each criterion. These categories were not necessarily mutually exclusive; certain data would result in a “yes” code for more than one criterion. For example, if conditions

in jails were egregious or systemic enough to rise to the level of civil rights violations, then the agency was coded “yes” for both civil rights violations and conditions in jails/detention centers. Another example of when the data warranted coding multiple criteria would be if the sheriff signed a public letter expressing anti-immigrant sentiments that opposed the current administration’s immigration priorities. In this case, the agency would receive a “yes” for both anti-immigrant statements and explicit opposition to the Biden administration. Codes were checked by an additional reviewer to ensure accuracy and were revised when warranted.

For the first two criteria listed above, we calculated the percentage of agencies that met each criterion (were coded as “yes”) based on the total number of 287(g) agencies (142); civil rights violations and poor detention facilities are relevant to all 287(g) agencies. For the final two criteria categories (anti-immigrant statements and advocacy of inhumane federal immigration policies), we calculated percentages based only on the total number of participating sheriffs’ offices (132), as the sheriff is an elected official whose political statements are relevant to how they operate their department, whereas these criteria would not be relevant to other agencies. The information we collected on all 287(g)-participating agencies informs the report that follows. We include both qualitative data, in the form of case-study findings and select examples representing identified patterns, and quantitative descriptive data, e.g., percentages of agencies coded for specific criteria.

### Phase 2

After collecting information on all 142 287(g) programs, we then identified the most egregious participating agencies – those for which the most evidence of abuse in these issue areas was available. This assessment was not based simply on the number of criteria agencies were coded for – as these were dichotomous “yes”/“no” codes, regardless of frequency or severity – but rather a more holistic, comparative evaluation of severity and frequency of civil rights violations among 287(g)-participating

agencies. For example, a sheriff's department may have a large number of excessive force incidents, triggering a "yes" code only in the "civil rights violations" criterion, but the extent of these abuses would comprise a severe enough pattern to warrant inclusion on the list of the 287(g)-participating agencies with the most egregious records. Another department, on the other hand, may have one or two incidents for all issue areas, triggering a "yes" code across criteria, but not rise to the level of the most egregious due to the comparatively small number or severity of documentable incidents of abuse overall.

All findings are included in this report, but a more detailed assessment and specific documentation for those 54 agencies identified as among the most egregious is provided in a supplement to this report available at [aclu.org/sheriffs-report-supplement](https://www.aclu.org/sheriffs-report-supplement).

## Limitations and Considerations

Importantly, our review is a starting point, but it is not a sufficient basis for understanding the entirety of the 287(g) program or all 287(g) agreements, nor is our failure to include findings regarding a particular 287(g)-participating state or local agency a basis for assuming that its record is unproblematic, or that its agreement need not be terminated. Our findings are necessarily incomplete because, in many counties with 287(g) agreements, documentation of civil rights violations is limited by factors such as limited English proficiency of impacted communities and corresponding limits on their ability to report abuses; limited access to low-cost or pro bono legal counsel and a corresponding absence of civil rights lawsuits; the absence of grassroots activist networks and resources; a lack of local news reporting; or a lack of robust federal, state, or local requirements for collecting and reporting abuses by law enforcement agencies, particularly racial profiling. Indeed, those who are victims of racial profiling are less likely to report the abuse due to fear of retaliation or reluctance to seek protection from the same legal system that victimized them, such that our count of racial profiling and civil rights abuses in 287(g) counties is likely vastly under-reported.



# Introduction: The 287(g) Program and How It Works in Practice

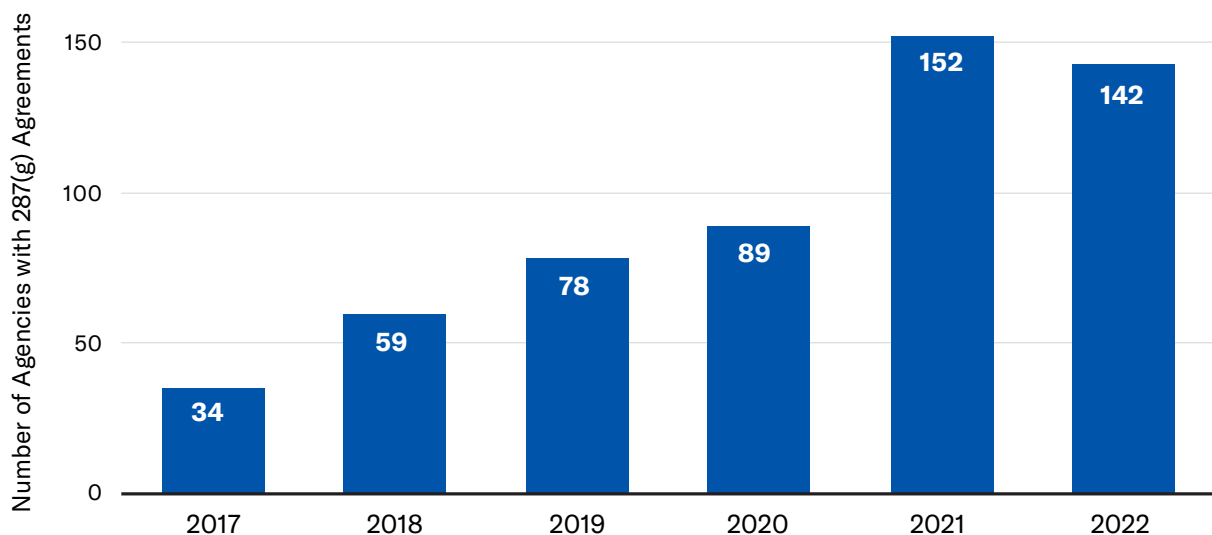
The U.S. Immigration Customs and Enforcement (ICE) taps state and local law enforcement agencies to identify and detain individuals for potential deportation through several programs and practices, in what rights advocates term the criminal-system-to-deportation pipeline.<sup>14</sup> Due to this pipeline, when immigrants come into contact with state and local law enforcement, they risk being separated from their families and deported.

One of the most controversial parts of the pipeline is the 287(g) program, which draws its name from the section of the Immigration and Nationality Act that authorizes it. The 287(g) program is a set of partnerships between ICE and state and local law enforcement agencies.<sup>15</sup> These agreements delegate authority to designated state and local

officers to perform some of the same functions of an immigration officer, including identifying, arresting, and detaining people for deportation.<sup>16</sup>

According to ICE, 287(g) enables ICE to “expand its national footprint,” using state and local law enforcement as a “force multiplier.”<sup>17</sup> By the end of the Obama administration – following damning Department of Justice civil rights investigations that spurred reform – only 34 local agencies remained in the program. Yet today, following the Trump administration’s recruitment efforts, the Biden administration is overseeing a 287(g) program with more than 140 state and local law enforcement agency partnerships (see Figure 1). At present, ICE has 287(g) partnership agreements with 142 state and local law enforcement agencies. According to the last

**FIGURE 1**  
**Active 287(g) Agreements Nationwide**



# ICE has 287(g) partnership agreements with 142 state and local law enforcement agencies

As of April 2022

publicly available estimates, this effectively adds 730 state and local officers to ICE’s 8,200 Enforcement and Removals Operations staff.<sup>18</sup>

## The Political Role of Sheriffs

The 287(g) program is primarily a set of partnerships between ICE and sheriffs. Although, historically, the program involved both city police and county sheriff’s departments, currently all but 10 of ICE’s 287(g) agreements are with sheriffs; the remainder are with five state departments of corrections, two police departments, and three county-level detention facilities/authorities.<sup>19</sup>

To understand the 287(g) program, it is thus vital to understand how sheriffs operate in jails and communities. In some parts of the country, the main contact that members of the community have with sheriffs and their deputies is inside local jails. But in many other areas, sheriffs and their deputies have authority to do far more in the community – traffic enforcement, crime investigations, and patrolling neighborhoods – independent of other local law enforcement agencies.<sup>20</sup>

Sheriffs are not merely law enforcement officials. Sheriffs are elected to their positions, unlike police chiefs, who are appointed and can be fired by local elected officials (or, in some cases, fired by a civilian oversight board).<sup>21</sup> Like other politicians, they have to manage and staff campaigns, raise money, and

amplify their public profiles. As independent elected officials, many sheriffs exercise substantial control over their own budgets with little oversight from local legislative bodies.

Historically, particularly in the South, sheriffs have played a major role in enforcing racist codes, “protecting” the property of whites through systematic racialized violence, and inflicting abuses that resulted in thousands of deaths in Black, Latinx, Native American and other communities of color.<sup>22</sup> This history still looms large in many parts of the country, and sheriffs’ departments continue to engage in patterns of racialized violence.<sup>23</sup> For example, during the 2020 presidential election, sheriff’s deputies in Alamance County, North Carolina, used pepper spray against participants in a march of mostly Black residents to the polls. The Biden administration continues to partner with this sheriff’s office through the 287(g) program.<sup>24</sup>

In most states, sheriffs align themselves with political parties. Indeed, we found at least 122 sheriffs in the 287(g) program – 92% – describe themselves as Republican, and only eight sheriffs (6%) describe themselves as Democrat. A lack of political agreement or alignment with the current administration would itself not be a legitimate reason to end a 287(g) agreement; however, many 287(g)-participating sheriffs have gone beyond policy disagreements and are claiming authority to defy



Photo by Lucy Nicholson/Reuters

Under 287(g), local law enforcement effectively take on the role of federal immigration police.

federal policy in order to enforce inhumane policies, particularly to preserve the anti-immigrant, anti-human rights legacy of the Trump administration.

## The True Impact of 287(g)

All of these factors have implications for how the 287(g) program works in practice. If a state or local agency signs a “Jail Enforcement Model” agreement, ICE delegates to it the authority to interview and screen people in its custody to determine their immigration status, enter information into DHS databases, take sworn statements, and initiate deportations through an immigration detainer and a notice to appear (NTA).<sup>25</sup> If a state or local agency signs a “Warrant Service Officer Model” agreement, its role is narrower: state and local officers identify individuals as foreign-born during the booking process, referring them to ICE to evaluate and process for deportation, and serve ICE administrative warrants on people in their custody.

We do not know how many individuals have been arrested and deported as a result of the 287(g) program. A 2021 Government Accountability Office report noted that “ICE admitted that it does not even track and cannot determine how many deportations and detentions have resulted from the program,” making the true footprint of the program impossible to know.<sup>26</sup> In any event, because sheriffs – both in jails and on the street – wield immense power and are often politically motivated, their actions resulting from the 287(g) program go far beyond what’s on paper.

### **287(g) Emboldens Racial Profiling**

A prime example of the ways 287(g) has failed communities is how it has emboldened racial profiling, a practice that violates the Constitution.<sup>27</sup> Sheriffs have often circumvented the jail enforcement-only nature of current 287(g) agreements by using traffic enforcement, patrols, and crime investigations to identify immigrants for deportation.<sup>28</sup>

For example, in Frederick County, Maryland, the local sheriff circumvented this limitation by requiring that everyone arrested by his department be brought to the local county jail for an immigration check as part of the booking process, resulting in sheriff’s deputies conducting pretextual arrests for traffic and other minor offenses for the actual purpose of immigration enforcement.<sup>29</sup> A 2017 study found that in Frederick County, the 287(g) program led the sheriff’s office to arrest significantly more Latinx individuals, even as it caused Latinx community members to attempt to avoid interacting with law enforcement.<sup>30</sup>

Numerous studies show that being in the business of immigration enforcement leads local law enforcement to target immigrants for minor violations and pretextual arrests, generating book-ins to local custody that can then lead to deportations.<sup>31</sup> Local law enforcement use “foreign-sounding” last names, place of birth, or racial appearance as a reason for stops, investigation, and arrest.<sup>32</sup> Indeed, a 2021 *Washington Post* analysis found that 287(g)-participating sheriff’s departments “saw a major increase in low-level arrests per officer starting in 2016.”<sup>33</sup> These officers are motivated – either explicitly, by the sheriffs leading them, or implicitly, through a culture of impunity – to arrest and remove from their community anyone they believe does not belong, and they use the 287(g) program to fulfill that racist mission.

Racial profiling has flourished in the places where the 287(g) program expanded.

Racial profiling has flourished in the places where the 287(g) program expanded. In Davidson County, Tennessee, the arrest rates for Latinx individuals driving without a license more than doubled after

it joined the 287(g) program.<sup>34</sup> In one notorious Davidson County case, a pregnant woman charged with driving without a license was shackled to her bed during labor.<sup>35</sup> Available data shows that a high percentage of people arrested by 287(g)-deputized officers were charged with minor traffic violations, suggesting pre-textual arrests and racial profiling – 83%, for example, in Gaston County, North Carolina.<sup>36</sup>

While this report collects documentation of racial profiling and related civil rights abuses in many 287(g)-participating jurisdictions, it is likely vastly under-reported. Individuals who are victims or witnesses of racial or ethnic profiling are less likely to come forward to make complaints due to fear of retaliation against themselves or their families (particularly mixed immigration status households). Many victims may feel reporting such abuse is futile, or may be reluctant to seek protection from the same legal system that victimized them. Moreover, many immigrants who have experienced racial profiling may be detained and lack access to legal counsel, while others may be deported before they can report the abuse.<sup>37</sup>

### **287(g) Contributes to Race-Based Federal Immigration Enforcement**

One result of this racial profiling by 287(g)-designated state and local officers is race-based federal immigration enforcement. While ICE's failure to track 287(g)-related arrests undermines our efforts to gain a full picture, the news reports, civil rights litigation, and testimonials recounted in this report suggest that the racial profiling practices of state and local law enforcement officers are putting disproportionate numbers of Black and Brown immigrants into the deportation pipeline. By facilitating this racial profiling, the 287(g) program contravenes the stated intentions of the Biden administration to advance racial equity across federal agencies.<sup>38</sup>

Race-based federal immigration enforcement also occurs, more largely, because the 287(g) program and other federal immigration enforcement practices

are triggered by an individual's interactions with criminal law enforcement and, in some cases, their arrest on criminal charges, directly importing the racial biases of the criminal legal system.<sup>39</sup> As the National Immigrant Justice Center explains: "Decades of overpolicing and surveillance of Black and Brown communities and institutionalized biases have meant Black and Brown people are disproportionately represented in the criminal legal system. The immigration system's historical reliance on criminal arrests and convictions...incorporates these disparities directly."<sup>40</sup>

Race-based federal immigration enforcement inside the United States, including the 287(g) program, should also be viewed within the larger context of disproportionate mistreatment, discrimination and violence to which Black immigrants are subject. A recent letter led by the UndocuBlack Network, Haitian Bridge Alliance, United We Dream and the Movement for Black Lives to the Biden administration emphasizes: "Black immigrants (from Africa, the Caribbean, Central America, and South America) worldwide are subjected to disproportionate mistreatment, discrimination, and violence....In the U.S., all Black immigrants are disproportionately demonized by anti-Black immigration policies."<sup>41</sup>

There is also serious risk that the 287(g) program may undermine the Biden administration's attempts to limit ICE deportations to its so-called enforcement priorities, as explained in the section of this report below, "Implications for Biden Administration's Efforts to Limit Indiscriminate Deportations."

### **287(g) Causes Communities to Live in Fear, Resulting in Negative Impacts on Public Safety and Public Health**

In parts of the country where the 287(g) program is in operation, many immigrants and their families live in fear of encountering local law enforcement, since it may result in separation from their families and deportation. Numerous studies show that fear of racist and anti-immigrant law enforcement makes undocumented immigrants and their family



“The training tells you that you are going to lock up and process people who are criminals, but in this case, 287(g) is meant to destroy people. Arresting a human being who is working to feed their family, turning them into a criminal, and removing them from that family unit is inhumane. My uniform became a burden. I no longer felt proud serving my country. My resignation was immediate.”

— **Anmarie Martin, former sherriff's deputy, Hall County, GA**

members less likely to come forward as witnesses, provide tips, and seek protection.<sup>42</sup> Research on the specific impact of 287(g) agreements finds these negative outcomes as well.<sup>43</sup>

A study of Latinx populations in four urban counties confirmed fears that members of immigrant communities would be less likely “to provide information about a crime,” including when they are the victim of a crime, due to fear that this interaction would be used as “an opportunity to investigate their immigration status or that of their friends and family members.”<sup>44</sup> As the Human Rights Initiative of North Texas, which works with U visa applicants, puts it, “there are no guarantees that law enforcement in a 287(g) jurisdiction would certify that an undocumented person was helpful in an investigation. Indeed, police in these areas could place the crime victim or a witness into deportation proceedings.”<sup>45</sup>

This is no mere supposition. Unfortunately, there have been too many cases justifying these fears. For example, in 2020, a Latina asylum seeker in Knox County, Tennessee, called 911 from inside her locked bedroom with her three children to report that her partner was belligerent and potentially armed; upon arrival at the house, rather than arrest her English-speaking U.S. citizen partner, officers detained the

woman and ultimately ICE detained her for more than two months.<sup>46</sup>

In addition to affecting public safety, immigrants’ fear and distrust of the authorities may have other serious implications for immigrant communities. Research on other immigration policies found that immigrants often refrain from seeking necessary services from any agency.<sup>47</sup> There is evidence that suggests a direct link between the fear of being detained and unwillingness to access health services, whether because of concern of encountering law enforcement at a hospital or the fear of being stopped for a traffic violation on the way to seeking care. It is not then surprising that research has indicated a direct link between 287(g) and similar policies and negative health outcomes among immigrant populations. For example, a rigorous examination of National Health Interview Survey data demonstrated a decrease in Latinx immigrants’ physical and mental health in areas with 287(g) agreements; after accounting for other factors, no such decrease was found for Latinx immigrants living in areas without 287(g) agreements, nor for white or Black individuals.<sup>48</sup> Burgeoning research exploring 287(g)’s impacts in North Carolina suggests that these programs may negatively affect the children

of immigrants, such as their school attendance and birth weight.<sup>49</sup>

Anmarie Martin, a former deputy in the Hall County, Georgia, Sheriff's Office—a long-time 287(g) partner—resigned in 2014 after seeing the number of immigrants separated from their families due to minor offenses, such as the case of a man who was referred to ICE after being detained for fishing without a license. “The training tells you that you are going to lock up and process people who are criminals, but in this case, 287(g) is meant to destroy people,” she told Univision. “Arresting a human being who is working to feed their family, turning them into a criminal, and removing them from that family unit is inhumane. My uniform became a burden. I no longer felt proud serving my country. My resignation was immediate.”<sup>50</sup>

### **287(g) Is Intertwined with Detention in Dangerous and Abusive Jail and Prison Conditions**

Some law enforcement agencies with 287(g) agreements also have detention contracts with ICE, essentially renting space to ICE for detention. When an agency has both a 287(g) agreement and a detention agreement with ICE, it has a dangerous profit incentive. “[T]he more immigrants 287(g) officers can identify, the more they can transfer to detention and get paid for,” the Immigrant Legal Resource Center explains. “These incentives worsen biases against immigrants in law enforcement.”<sup>51</sup> Dakota County, Nebraska, Sheriff Chris Kleinberg told media in 2017 that he was applying to join the 287(g) program because “[i]t’s an opportunity to make money for a county that is facing economic hardship.”<sup>52</sup>

The 287(g) program, along with other immigration enforcement programs that tap state and local law enforcement agencies to assist in immigration enforcement, also prolongs immigrants’ time in local jails and state prisons with dangerous conditions while local officers interrogate people about their immigration status and history and communicate with ICE. Many local law enforcement agencies

— including the administration’s 287(g) partners — have policies of refusing to release foreign-born people in their custody who have posted bond or whose criminal cases have been resolved if ICE has provided a detainer, and even if it has not.<sup>53</sup> This includes people charged with misdemeanor offenses, and there are numerous examples of local law enforcement agencies accepting bond payments and fees and yet refusing to release individuals.<sup>54</sup> Local law enforcement have also detained people past the 48 hours ICE requests through a detainer.<sup>55</sup>

These practices are not unique to the 287(g) program, and are likely to persist even if agreements are canceled until ICE fundamentally reforms its detainer practices. What is notable is that some 287(g)-participating law enforcement agencies appear to feel emboldened to hold people in violation of state and federal law, believing 287(g) and related programs shield them from liability. For example, Santa Rosa County, Florida, Sheriff Bob Johnson told local media in 2018 that he signed a Basic Ordering Agreement with ICE because it “protects me and the county from litigation.”<sup>56</sup> In 2020, he signed a Warrant Service Officer 287(g) agreement with ICE.

Some 287(g)-participating sheriffs are unapologetic about using the program to override judicial determinations about bond levels. In Barnstable County, Massachusetts, Sheriff James Cummings told a local news outlet that judges were too lenient in setting bail and that he wanted to prevent people who are accused of serious crimes from being able to post bond at all; the sheriff reportedly said he sees 287(g) as giving him that ability.<sup>57</sup>

# 287(g)'s History as a Vehicle for Racism and Anti-Immigrant Hate

From the start, anti-immigrant sheriffs and politicians have used the 287(g) program to pursue a racist agenda, despite the program being billed as a public safety initiative.

## The 1996 Law

In 1996, Congress authorized state and local law enforcement agencies to directly participate in federal immigration enforcement for the first time through the Illegal Immigration Reform and Immigrant Responsibility Act. With both political parties supporting a “tough on crime” approach to immigration, the bill’s sponsors described it as “the toughest legislation against illegal immigration enacted in our lifetimes.”<sup>58</sup> Though President Bill Clinton signed the bill, his administration required community consultation prior to the signing of any 287(g) agreements, which resulted in local rejection of every potential partnership.<sup>59</sup> Facing public opposition, “[n]early all U.S. police departments either ignored the invitation or spoke up against it because they believed it would turn their immigrant communities against them because their officers would end up targeting people by ethnic (usually Latino) appearance.”<sup>60</sup>

It was not until 2002 – under the George W. Bush administration and in the aftermath of the September 11, 2001 attacks – that the federal government signed its first 287(g) agreement, with Florida state police.<sup>61</sup> DHS described this agreement, and those that followed over the next half decade, as being narrowly focused – initially on combating terrorism, and later on criminal organizations and border security.<sup>62</sup>

## A Vehicle for Racist Sheriffs from the Get-Go

But the reality was that from the beginning, local law enforcement partners seized on the program to “satisfy the urge to get tough on illegal immigration,” as the *New York Times* put it in a 2010 editorial calling for an end to the program.<sup>63</sup> In Mecklenburg County, North Carolina, then-Sheriff Jim Pendergraph touted the results of his early partnership, telling Congress that ICE was “overwhelmed by the numbers we are generating for removal in Mecklenburg County alone.”<sup>64</sup> A few years later, as executive director of ICE’s Office of State and Local Coordination, he told a conference of police chiefs and sheriffs: “If

“If you don’t have enough evidence to charge someone criminally but you think he’s illegal, we can make him disappear.”

— Jim Pendergraph, Executive Director, ICE’s Office of State and Local Coordination

you don't have enough evidence to charge someone criminally but you think he's illegal, we can make him disappear."<sup>65</sup> Indeed, 15,000 Mecklenburg residents were deported under the program over 12 years until a newly elected sheriff ended it in 2018.<sup>66</sup>

As the 287(g) program expanded, nearly 80% of the new sheriffs joining were in the South.<sup>67</sup> "The common factor among them was not a high crime rate...[it] was a change in demographics," law professor Alina Das writes.<sup>68</sup> FBI and census data showed that 61% of the new 287(g) partner localities had violent and property crime indices *lower* than the national average, while 87% had experienced a growth in their Latinx population that outpaced the national average.<sup>69</sup> Johnston County Sheriff Steve Bizzell, a leader of the North Carolina Sheriffs' Association who helped broker a deal to increase his state's participation in the 287(g) program in the late 2000s, acknowledged his goal was to reduce if not eliminate the immigrant population of his county, complaining that "Mexicans" were "breeding like rabbits."<sup>70</sup>

From the beginning, ICE signed 287(g) agreements with sheriffs who ran on anti-immigrant campaign platforms and sought to participate in the program as a "political trophy in local anti-immigration campaigns."<sup>71</sup> It also signed and renewed agreements with local agencies despite their records of racial profiling. There are myriad examples:

- ICE signed an agreement with the city of Rogers, Arkansas, in 2007 after it was sued for unlawfully targeting Latinx motorists for stops, searches, and investigations in 2001 and even though it was still under federal court supervision pursuant to the lawsuit.<sup>72</sup>
- ICE signed an agreement with Frederick County, Maryland Sheriff Charles ('Chuck') Jenkins in 2008 after he ran on an anti-immigrant platform that included a warning that "aliens" were moving to Frederick County from Northern Virginia – and a pledge that he would "shoot them right back."<sup>73</sup> Jenkins argued that "the single biggest threat to our country is the immigration problem. We cannot continue to absorb this population or we will end up in collapse like a third world country."<sup>74</sup>

His department has a record of racial profiling and settled a lawsuit in 2021 with the ACLU of Maryland.<sup>75</sup>

- Witnesses told investigators that Alamance County, North Carolina Sheriff Terry Johnson told deputies to "go out there and get me some of those taco eaters" and demanded "bring me some Mexicans" while pounding his fists on a table in a staff meeting.<sup>76</sup> ICE terminated its initial 287(g) agreement with the sheriff's department following a 2012 Justice Department lawsuit documenting a widespread pattern of racial profiling, including systematic and unlawful targeting of Latinx residents for investigation, traffic stops, arrests, and seizures. But ICE re-entered into a 287(g) agreement with the same office – and the same sheriff at the helm – in 2017.<sup>77</sup>

## The Obama Administration's Reform and Termination of 287(g) Agreements

The program continued to expand during the first years of President Barack Obama's administration, peaking at 77 active agreements in 2009.<sup>78</sup> Criticism followed; in 2009, the ACLU joined more than 500 civil rights groups in calling for President Obama to end the program and noting that "local law enforcement agencies that have been granted 287(g) powers are using the program to target communities of color, including disproportionate numbers of Latinos in particular places, for arrest."<sup>79</sup> In 2011, damning Department of Justice investigations found evidence of racial profiling and other civil rights violations in 287(g)-participating Maricopa County, Arizona, and Alamance County, North Carolina. Police groups and law enforcement figures raised objections, citing both the cost of participation and the lack of a public safety benefit.<sup>80</sup> Congress cut funding for the program by nearly half.<sup>81</sup>

In 2012, the Obama administration began to terminate all 287(g) agreements that delegated authority for local agencies to operate in communities rather than jails – the "task force"



and “hybrid” models.<sup>82</sup> The Obama administration said the agreements were not necessary, citing the effectiveness of other enforcement programs, but the decision was also a response to documented racial profiling, along with sustained pressure from Congress and activists. By the end of the Obama administration, only 34 local agencies remained in the program.<sup>83</sup>

# The Trump Administration's Expansion of 287(g)

The Trump administration exponentially expanded the 287(g) program, leaving it five times bigger by the end of its term and responsible for two and a half times as many deportations as before.<sup>84</sup>

Just days after taking office, President Donald Trump issued an executive order tasking DHS with pushing the 287(g) program on state and local officials.<sup>85</sup> Weeks later, DHS Secretary John Kelly signed a memorandum to implement Trump's executive order and expand 287(g) "to the greatest extent practical" and to give authority to Customs and Border Protection to initiate 287(g) agreements.<sup>86</sup> A 2021 *Washington Post* investigation details the Trump administration's efforts, noting that "ICE moved quickly, requesting meetings with the sheriffs, sending marketing materials and following up when local agencies did not respond."<sup>87</sup>

To garner support, Trump met with a group of sheriffs to discuss his executive orders on immigration issues and invite more counties to join the 287(g) program.<sup>88</sup> One draft executive order revealed that Trump considered expanding 287(g) by initiating agreements with state National Guards and enlisting them to "perform the functions of an immigration officer in relation to the investigation, apprehension, and detention of aliens in the United States."<sup>89</sup>

## 287(g) as Part of Trump's Anti-Immigrant Attacks

The Trump administration's 287(g) expansion was part of its agenda to dramatically ramp up



deportations, including through blatant intimidation of immigrants and coercion of state and local agencies. In the same executive order that Trump used to expand the 287(g) program, he widened the scope of immigrant enforcement priorities to treat millions more people as priority removals, including those with no criminal record.<sup>90</sup> Trump also announced a "nationwide crackdown" to punish state and local governments that declined to participate in these deportations.<sup>91</sup> Over the course of his term, he threatened mass raids on so-called sanctuary cities and at times carried out this threat.<sup>92</sup> For instance, in February 2019, ICE arrested more than 220 undocumented people in North Carolina in apparent retaliation against five newly elected sheriffs in the state who had announced plans to cut ties with ICE, including by exiting the 287(g) program.<sup>93</sup>

During the same period, the anti-immigrant movement lobbied for and, in some states, succeeded in passing laws and policies limiting local control

over whether law enforcement cooperates with ICE. In some places, this has meant that local government agencies that do not want to collaborate with ICE, believing it to be a counterproductive use of limited local resources, may end up reluctantly joining the 287(g) program. For example, Terrence Lynch, the general counsel for the Sheriff's Office of Broward County, Florida, said that the department only signed a 287(g) agreement in response to a new state law, SB 168, signed by Gov. Ron DeSantis. As reported by the *South Florida Sun Sentinel*, "The sheriff has no choice but to comply with Senate Bill 168. It's the law," Lynch said. If the law were ruled unconstitutional, the Sheriff's Office would terminate its agreement with ICE, Lynch said."<sup>94</sup>

## Trump's Appeal to the Anti-Immigrant Racism of Local Sheriffs

The Trump administration used blatantly xenophobic and racist messaging in its pitch to sheriffs to join the 287(g) program. For example, in February 2017, Trump told attendees of a joint conference of the Major County Sheriffs of America and the Major Cities Chiefs Association to call DHS Secretary John Kelly to turn in undocumented "bad ones":

You have the power and knowledge to tell General Kelly – now Secretary Kelly – who the illegal immigrant gang members are. Now, you have that power because you know

them, you're there, you're local. You know the illegals, you know them by their first name, you know them by their nicknames. You have that power. The federal government can never be that precise. But you're in the neighborhoods – you know the bad ones, you know the good ones. I want you to turn in the bad ones. Call Secretary Kelly's representatives and we'll get them out of our country and bring them back where they came from, and we'll do it fast. You have to call up the federal government, Homeland Security, because so much of the problems – you look at Chicago and you look at other places.<sup>95</sup>

The Trump administration explicitly linked 287(g) to its most egregiously inhumane, anti-immigrant policies. For example, in April 2018, at a convening of the Southwestern Border Sheriffs' Coalition, Attorney General Jeff Sessions urged sheriffs to join the 287(g) program while highlighting the Justice Department's "zero tolerance policy," which allowed the government to separate thousands of children from their parents.<sup>96</sup> At a 2020 meeting of the National Sheriffs' Association, Attorney General Bill Barr likewise urged sheriffs to join the 287(g) program while touting the administration's lawsuits and actions against states, counties, and district attorneys that he said were not doing enough to help detain and deport immigrants.<sup>97</sup>

## Trump Administration's Weakening of Limits on 287(g)

Under the Trump administration, DHS removed expiration dates and other guardrails from 287(g) agreements,<sup>98</sup> at the same time dropping civil rights investigations into local law enforcement agencies and even publicly encouraging police brutality.<sup>99</sup> It removed the DHS Office for Civil Rights and Civil Liberties from much of its role in vetting potential 287(g) partners' civil rights records.<sup>100</sup>

DHS also devised a new form of 287(g) agreement, the Warrant Service Officer program, which now accounts for at least half of all 287(g) agreements.<sup>101</sup>

The Trump administration explicitly linked 287(g) to its most egregiously inhumane, anti-immigrant policies.

DHS described the Warrant Service Officer program as an attempt to shield local officers from liability when they violate people’s rights, and as a way to subvert state and local decisions not to participate in immigration enforcement.<sup>102</sup> It requires only a single day of training for law enforcement partners.<sup>103</sup>

Many law enforcement agencies that have joined the 287(g) program through the Warrant Service Officer model have records of civil rights violations. A prime example is Alamance County, North Carolina. The Obama administration terminated its contract following a damning Department of Justice civil rights investigation, but the Trump administration re-signed it to the Warrant Service Officer program.<sup>104</sup> At its peak, the number of these agreements totaled 152.<sup>105</sup>

Despite President Biden’s pledge to “end all the agreements entered into by the Trump Administration,” nearly all of the agencies recruited by the Trump administration remain part of the 287(g) program under the Biden administration.

## Urban Areas and Police Chiefs Flee the 287(g) Program Under Trump

The Trump administration’s massive expansion occurred mostly in suburban and rural areas, while urban areas fled the program, citing costs and the impact on community relations.<sup>106</sup> In several large counties, constituents voted out sheriffs who favored 287(g) and elected candidates who campaigned on ending participation in the program. In 2018, North Carolinian voters in Durham, Mecklenburg, and Wake counties elected new sheriffs who vowed to cut ties with ICE.<sup>107</sup> When Mecklenburg County Sheriff Garry McFadden ended the county’s agreement, he said that 287(g) “erodes trust with our community and ties up critical resources that should be used to ensure public safety.”<sup>108</sup>

In November, 2020, three more sheriffs who participated in the 287(g) program were either defeated or replaced by 287(g) opponents who ended

the contracts. In those three counties – Gwinnett and Cobb in Georgia and Charleston, South Carolina – voters elected sheriffs who said that the 287(g) program undermined public safety and led to racial profiling of immigrant residents.<sup>109</sup> Upon ending her department’s participation, Charleston County Sheriff Kristin Graziano called the 287(g) program “legal racial profiling.”<sup>110</sup>

Harris County, Texas Sheriff Ed Gonzalez, who is now the Biden administration’s nominee to run ICE, took the sheriff’s office out of the program following his 2016 election, blasting 287(g) as adverse to public safety: “287(g) is dangerous for our families and neighborhoods. It diverts millions of dollars in scarce resources away from protecting our county from violent criminals, encourages illegal racial profiling, and undermines effective community policing strategies.”<sup>111</sup>

“Diverting valuable law enforcement resources away from public safety threats would drive undocumented families further into the shadows & damage our community safety,” Gonzalez said in a 2019 tweet. “It silences witnesses & victims & [would] further worsen the challenges law enforcement officials face.”<sup>112</sup>

When these new sheriffs followed through on their commitments, ICE sometimes retaliated by ramping up street enforcement operations in their counties rather than curbing enforcement.<sup>113</sup> ICE called Mecklenburg County’s decision to end its participation in the 287(g) program “an open invitation to aliens who commit criminal offenses” and warned that

Under the Trump administration, DHS removed expiration dates and other guardrails from 287(g) agreements.

“ICE will now have no choice but to conduct more at-large arrests in local neighborhoods and at worksites, which will inevitably result in additional collateral arrests.”<sup>114</sup> In the run up to and aftermath of the 2020 presidential elections, ICE launched a billboard ad campaign in North Carolina and Pennsylvania, two pivotal “battleground” states, attacking local policies meant to protect immigrant residents.<sup>115</sup>

In March 2021, a group of over 100 state and local law enforcement leaders asked DHS Secretary Alejandro Mayorkas to “end the programs that use local and state police officers and sheriffs’ deputies to conduct federal immigration law enforcement,” warning that they effectively may be “turning immigrants into targets of crime.”<sup>116</sup>

## Developments Under the Biden Administration

With 287(g) acting as a cornerstone of Trump’s attacks on both immigrants and states and localities that resisted his administration’s policies, it is unsurprising that it drew scrutiny during his presidency. As a presidential candidate, Biden criticized the program and promised sweeping reform. In his “Agenda for the Latino Community,” Biden said that efforts “to deputize state and local law enforcement” to perform the functions of ICE agents “undermine trust and cooperation between local law enforcement and the communities they are charged to protect.” Biden vowed to “end all the agreements entered into by the Trump Administration, and aggressively limit the use of 287(g) and similar programs that force local law enforcement to take on the role of immigration enforcement.”<sup>117</sup>

But a year into office, the Biden administration has done little to fulfill that promise to the voters who elected him, and DHS has sent mixed signals about its intentions for the program. In May 2021, Secretary Mayorkas announced it would end agreements with the sheriff of Bristol County, Massachusetts, terminating both the department’s contract for immigrant detention and their 287(g) agreement, following years of brutal treatment of immigrants in their custody.<sup>118</sup>

Bristol County, though, was far from unique among 287(g)-participating agencies in engaging in the wanton abuse of immigrants. That same month, the president sent a budget proposal to Congress for the coming fiscal year that encouraged “continued expansion” of the 287(g) program. Following criticism from immigrant rights advocates, the administration replaced that language with an ambiguous statement that “ICE recognizes the program is not universally acknowledged as the most effective or appropriate model for all stakeholders or in every jurisdiction....ICE will maintain its authority to utilize 287(g) agreements, exercise strict oversight where such agreements operate, and will continually evaluate the overall effectiveness of the program,” the administration said.<sup>119</sup>

In Ohio, the Butler County Sheriff’s Office ended its 287(g) agreement in the first months of the Biden administration, but claimed to do so out of concern over the administration’s immigration enforcement reforms.<sup>120</sup> ICE had last renewed its agreement with Butler County in 2020, despite the sheriff’s egregious record of anti-immigrant statements, including posting a sign reading “illegal aliens here” in front of the local jail he oversees.<sup>121</sup> While the sheriff is no longer part of the 287(g) program, it is remarkable that the Biden administration did not move first to terminate that partnership. In Massachusetts, the Plymouth County Sheriff’s Department also decided to exit the 287(g) program in 2021, following protests about their participation from local and state immigrant rights advocates.<sup>122</sup>

At his confirmation hearing, Sheriff Gonzalez, the Biden administration’s nominee to run ICE, specifically ruled out ending the 287(g) program, despite his opposition to it as sheriff and his earlier statements that the program undermines public safety and leads to racial profiling.<sup>123</sup>

In November 2021, in response to a *Washington Post* investigation illustrating Trump’s courtship of sheriffs, DHS said that “local officers or departments will be dropped from the program if proof of racial profiling is uncovered.”<sup>124</sup> But as this report and others have found, racial profiling is endemic to the program.



# How 287(g) Undermines Biden’s Immigrant and Civil Rights Agenda

Our comprehensive review of participating law enforcement agencies shows that the 287(g) program is empowering the very sheriffs that embody the problems President Biden took office resolving to address.

We collected information on all 142 participating agencies and reviewed data based on four criteria, which assessed the nature of interactions between law enforcement and the public, law enforcement’s views toward immigrants and immigration policy, and conditions of detention sites.

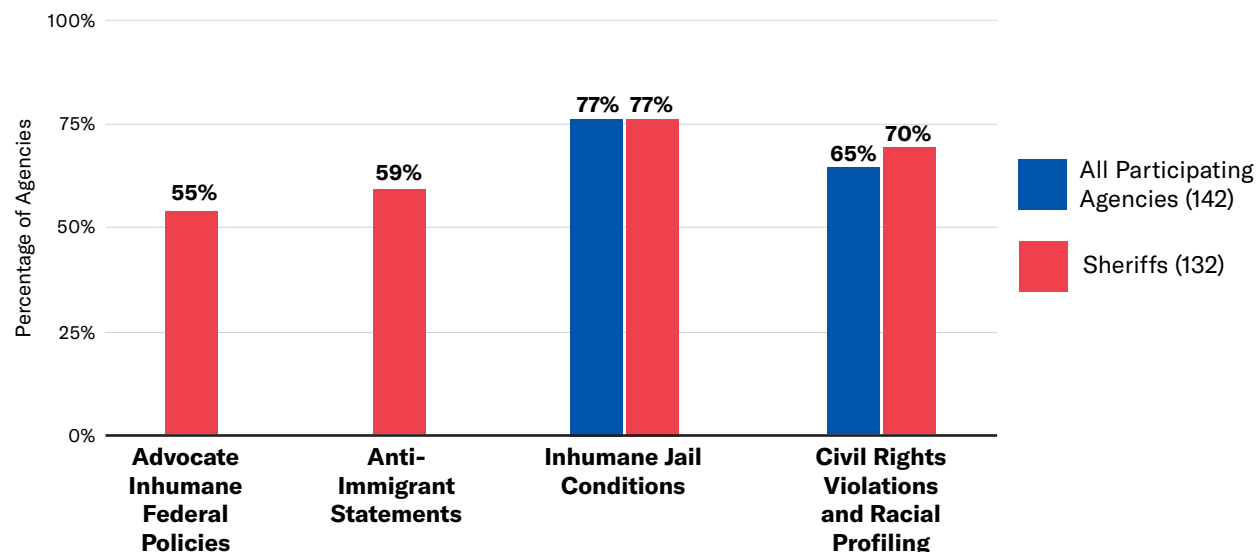
Over half of sheriffs expressed anti-immigrant sentiments (59%), and a similar portion (55%) advocated inhumane immigration and border policies, which includes participating in efforts to

preserve the Trump administration’s anti-immigrant, anti-human rights policies. Only sheriffs were assessed for these criteria.

As a candidate for president, Biden urged Americans to “choose hope over fear” and “truth over lies.”<sup>125</sup> But by continuing these 287(g) partnerships, the administration is choosing to elevate sheriffs who instill fear in their communities, who tell abject lies about immigrants and immigration, and who have shameful and persistent records of civil rights violations, particularly against Black and Brown communities.

The 287(g) program remains a vehicle for racist and anti-immigrant sheriffs. Far from having simple political disagreements over policies, several

**FIGURE 2**  
**Records of Identified Abuses Among 287(g) Agencies**



participating sheriffs have instead decided to misrepresent and falsify the administration's policies to stoke racist tropes, spreading baseless, xenophobic fears of a supposed immigrant invasion of the United States. Based on unfounded legal arguments, some of them even believe that the sheriff has nearly unconstrained authority and can effectively nullify federal policies.

By partnering with these sheriffs, the Biden administration is giving them credibility and undermining its own efforts to repair the harm inflicted by the Trump administration's anti-immigrant rhetoric and policies. It is arguably colluding in the very civil and human rights violations the president has denounced as contrary to this country's best values, as well as the rule of law. Through partnerships with these sheriffs, the 287(g) program is undermining the Biden administration's stated commitment to confront systemic racism and hold law enforcement accountable for violating the law.

## 59% of Participating Sheriffs Have Records of Pushing Anti-Immigrant Hate and Xenophobia

The Biden administration should stop empowering racist sheriffs through the 287(g) program, particularly in light of the implications for public safety and racial profiling. Our review found that at least 59% of participating sheriffs have records of making anti-immigrant statements in their capacity as sheriff. Most commonly, we found that these sheriffs villainize immigrants as threats to public safety, often overemphasizing the immigration status of individuals who have been charged with serious crimes. In many cases, sheriffs amplified the fear-mongering, racist rhetoric of national political figures regarding an "invasion" at the southern border, with white supremacist undercurrents to their warnings of the alleged "threat" posed to "citizens."

## 287(g)-participating sheriffs continue to create a climate of fear for immigrants and their families.

The Trump administration signed agreements with local law enforcement agencies with egregious records of anti-immigrant, dehumanizing, and racist statements. These agencies remain part of the 287(g) under the Biden administration. For example:

- The Knox County, Tennessee Sheriff's Office first applied to join the 287(g) program in 2009.<sup>126</sup> When the Obama administration denied its application, the sheriff stated his intention to flout its decision, stating, "I will continue to enforce these federal immigration violations with or without the help of ICE....If need be, I will stack these violators like cordwood in the Knox County jail."<sup>127</sup> In 2017, after Trump's inauguration, the department applied again and was approved.<sup>128</sup>
- ICE signed an agreement with the Nye County, Nevada Sheriff's Office in 2017, despite a documented culture of racism and anti-immigrant animus within Nye County local government, including statements by a county official referring to undocumented immigrants as "dirty filthy Mexican/Latino illegals" and "locust (sic) crossing our great country and destroying everything in sight."<sup>129</sup>
- ICE signed an agreement with the sheriff's department in Goliad County, Texas, in 2017. There, Sheriff Roy Boyd has posted signs in Spanish proclaiming "we will hunt you down," warned that if people continue to cross into the country at the current rate, "we will not have a sovereign country anymore," and described immigration enforcement as a "fight between

good and evil.”<sup>130</sup> In a 2021 video he posted on the sheriff’s department’s official YouTube page, he walks along the border while proclaiming that American citizens are “the real victims of this crisis, the ones marginalized by the media and their own government. Something has to be done or our way of life will be destroyed forever.”<sup>131</sup>

- ICE renewed an agreement with Sheriff Bill Waybourn of Tarrant County, Texas, in 2020. In 2019, Waybourn traveled to the White House to speak at an event with then-ICE Acting Director Matt Albence. Referring to immigrants, Waybourn said, “If we have to turn them loose or they get released, they’re coming back to your neighborhood and my neighborhood. These drunks will run over your children, and they will run over my children.”<sup>132</sup>

Photo by Jonathan Ernst/Reuters



287(g) Sheriff Bill Waybourn of Tarrant County, Texas speaks at the White House with then-ICE Acting Director Matt Albence.

Based on an in-depth investigation by Political Research Associates of law enforcement officials affiliated with the Federation for American Immigration Reform (FAIR),<sup>133</sup> an anti-immigrant organization that was founded by the white nationalist John Tanton, we identified at least 17 287(g)-participating sheriffs affiliated with FAIR.<sup>134</sup>

The Southern Poverty Law Center has described FAIR leaders as having “ties to white supremacist groups and eugenicists.”<sup>135</sup> During the Trump administration, FAIR worked closely with the National Sheriffs’ Association as well as state-level associations to develop the Warrant Service Officer model, intended to enable local law enforcement to violate constitutional rights with impunity.<sup>136</sup> FAIR also organized several events at the White House during the Trump administration, with which it boasted a close relationship, as part of a push to deputize sheriffs in the organization’s anti-immigration efforts.<sup>137</sup>

### Implications of Sheriffs’ Anti-Immigrant Enforcement and Rhetoric on Public Safety

Even as the Biden administration has departed from the Trump administration’s fear-mongering rhetoric about immigrants inside the United States, these 287(g)-participating sheriffs continue to create a climate of fear for immigrants and their families.

These fears appear to be well-founded. 287(g) sheriffs with anti-immigrant rhetoric are less likely to support immigrant community members who do come forward to assist in crime investigations. For instance, between 2016 and 2018, during the time when Polk County, Florida, Sheriff Grady Judd warned that “illegal aliens” are “preying on the people of this country,” the sheriff’s department reportedly did not certify a single of the nearly 70 U visa requests it received from immigrants who were victims of crimes and had assisted law enforcement in criminal investigations.<sup>138</sup> Rita Cote, a Latina immigrant, was detained in Lake County, Florida for several days under the 287(g) program after she assisted in translating for her sister, who had called the police following a domestic assault.<sup>139</sup>

This type of earned distrust of law enforcement exacerbates the state of fear already present among many immigrant families, and the anti-immigrant sentiments expressed by many 287(g)-participating sheriffs not only results in unfair, and potentially

unlawful, enforcement practices that harm immigrant communities, they also undermine public safety at large.

## Implications for Racial Profiling

The anti-immigrant rhetoric of these sheriffs raises concerns over whether they may be encouraging or at least tolerating racial profiling among their staff – a risk heightened by the lack of effective supervision by ICE. As noted, ICE’s failure to track 287(g)-related arrests stymies our ability to gain a full picture of the program and the rate of racial profiling. Indeed, ICE does not appear to monitor the initial arrests made by local officers in 287(g) jurisdictions for potential racial profiling, “creat[ing] a situation where the public cannot judge the full extent to which this program is leading to civil liberties violations.”<sup>140</sup>

The ACLU has long argued that the structure of the 287(g) program – without internal controls or careful supervision – heightens the serious risk of racial and ethnic profiling that exists in the policing context.<sup>141</sup>

## 55% of Participating Sheriffs Advocate for Inhumane Immigration and Border Enforcement

We found that at least 73 of the 132 sheriffs in the 287(g) program – 55% – have expressed support for inhumane immigration and border enforcement policies, particularly on the federal level. While policy disagreements are themselves not notable, 287(g) partners are using their megaphones as public figures to advocate policies based on fear and hatred of immigrants.

While projecting xenophobia, many sheriffs are also spreading misinformation and making recklessly false claims about current practices and the Biden administration’s plans. For example:

- Sheriff Al Nienhuis of Hernando County, Florida, who joined the 287(g) program in 2018, has used his office’s Facebook account to inaccurately

proclaim, “Today, EVERY town is a border town. The border is not just open to people who want a better life, it is open to ANYONE who wants to cross (illegals from over 170 countries are frequently caught - NOT just Central America)... If you are a violent criminal, gang member, or terrorist, it is an EASY pathway to the United States....Open borders is not acceptable (regardless of your political stance). US citizens in the area (and throughout the country) are paying a HEAVY price.”<sup>142</sup> He signed a letter explicitly blaming President Biden for this “lawlessness.”<sup>143</sup>

- Jackson County, Texas Sheriff A.J. Louderback, who joined the 287(g) program in 2020, inaccurately tweeted, “Biden has more empathy for criminal aliens who have entered our country illegally than he does for citizens and this nation’s law enforcement officers!”<sup>144</sup> He has mischaracterized the administration’s policies as “the Biden administration’s vision of an open border,” which he calls “catastrophic to our counties, our cities, and everyone’s affected by this issue.”<sup>145</sup> In December 2021, Louderback resigned to run for Congress.



287(g) Former Sheriff A.J. Louderback of Jackson County, Texas.

- Sheriff Mark Lamb of Pinal County, Arizona, alleged that Vice President Kamala Harris and others in the administration want to stoke “chaos”: “[S]he’s not the right person for the job...And we



are left to only believe that this is exactly what they want. They want this chaos that is coming into this country.”<sup>146</sup>

State and local officials should be free to disagree with an administration’s policies and express support for different ones. Indeed, the ACLU is on record as strongly opposing several of the Biden administration’s immigration policy decisions, questioning their wisdom and effectiveness.<sup>147</sup> However, the rhetoric we have described goes beyond a mere disagreement over policies for at least three reasons. First, these 287(g) partners are using their megaphones as public figures to advocate for policies based on fear and hatred toward immigrants, in many cases using misleading or patently false claims. The Biden administration should not validate that xenophobia by empowering these officials through the 287(g) program and, as discussed above, it should recognize that this xenophobia harms public safety and contributes to the risk of racial profiling. Second, as further described below, these 287(g) partners are, in many cases, claiming authority to defy federal policy in order to enforce their inhumane policies, particularly to preserve the anti-immigrant, anti-human rights legacy of the Trump administration. Third, there is reason to be concerned that these same sheriffs will use authority delegated to them through the 287(g) program to flout Biden administration policies intended to limit indiscriminate deportations.

While not every sheriff who supports inhumane immigration enforcement policies will pursue them, there are many who are on the record as intending to do so. In April 2021, 275 sheriffs – 41 of whom have active 287(g) agreements – signed on to a letter addressed to President Biden titled “Help America’s Sheriffs Keep Our Neighborhoods and Communities Safe by Halting Illegal Immigration” that spreads misinformation about Biden administration policies and stokes fear about the alleged threats posed by immigrants.<sup>148</sup> Addressing President Biden, the sheriffs signing the letter warn of the “criminal illegal alien violence caused by the reckless and irresponsible policies of your administration.” Until the administration’s immigration policies “move in

the right direction,” the letter warns, the sheriffs “will continue to uphold our oaths, enforce our sovereign authorities, fight for public safety, and keep our promises to the American people who have placed their trust in us.” Taken together, this language amounts to a warning that the signatory sheriffs will defy the Biden administration’s immigration reforms (both perceived and actual) in favor of undefined “sovereign authorities.”

### **Twenty-Three 287(g)-Participating Sheriffs Are Openly Seeking to Preserve Trump’s Anti-Immigrant Legacy by Defying the Administration’s Authority to Set Immigration Policies**

In the course of our examination of records of participating agencies, we uncovered evidence that 23 287(g)-participating sheriffs<sup>149</sup> were working in concert with other state and local officials to foment a narrative of crisis at the southern border and further demonize immigrants. In a joint June 2021 letter, Republican governors Greg Abbott of Texas and Doug Ducey of Arizona asked other states to share resources and officers “to secure the border in the federal government’s absence” – what they inaccurately called “President Biden’s open-border disaster.”<sup>150</sup> (In fact, as noted in numerous PolitiFact posts about “open border” claims, “The vast majority of what are known as enforcement encounters result in U.S. immigration officials turning people *away* at the border.”<sup>151</sup>)

In summer 2021, Abbott announced a “new comprehensive border security plan to crack down on illegal border crossings in Texas.”<sup>152</sup> He issued a series of proclamations declaring a “state of disaster” in Texas based on what he described as “federal government policies” and federal “inaction” that he claimed have led to an “unabated influx” of migrants across the southern border.<sup>153</sup> He urged local counties to follow suit by signing local declarations of disaster, and promised to tap sheriffs and other state and local officials to assist in arresting and detaining immigrants. As of December 2021, at least 10 287(g)-participating counties have agreed to join in



# The ACLU of Texas has termed Abbott's efforts to create a unilateral immigration enforcement policy the attempted creation of "an anti-immigrant police state."

this "state partnership" and declared their own local "disaster."<sup>154</sup> The ACLU of Texas has termed Abbott's efforts to create a unilateral immigration enforcement policy the attempted creation of "an anti-immigrant police state."<sup>155</sup>

In summer 2021, Abbott initiated a scheme to arrest immigrants on state criminal trespass charges and place them in a separate criminal legal system. At least one 287(g)-participating county – Galveston County – is actively involved in the arrest of immigrants occurring in Val Verde and Kinney counties, and Abbott has signaled an interest in expanding the program to even more counties.<sup>156</sup> In creating and implementing these unlawful policies, the governor has discriminated on the basis of race and national origin, and is working in concert with other state and local actors.<sup>157</sup> The Constitution's Supremacy Clause prevents state and local officers from embarking on unilateral immigration enforcement independent of the federal government.<sup>158</sup> Yet these efforts are an attempt to do just that.<sup>159</sup>

Florida Gov. Ron DeSantis issued his own call for local law enforcement to go to border states, and at least 10 287(g)-participating sheriffs in Florida pledged to send deputies to the U.S.-Mexico border or otherwise assist in the effort.<sup>160</sup> Months later, DeSantis signed what he termed the "Biden Border

Crisis Executive Order" and announced legislative proposals to "hold accountable private entities that knowingly or recklessly assist the Biden Administration in resettling illegal immigrants into Florida," tapping 287(g)-participating Sheriff Mike Williams of Jacksonville, Florida, to appear alongside him at the press conference.<sup>161</sup>

The Biden administration should not be providing training and other resources – and delegating federal immigration authority – to sheriffs who blatantly seek to preserve Trump's anti-immigrant legacy and preserve some of the most draconian, anti-human rights policies and practices in recent U.S. history.

## At Least 23 287(g) Sheriffs Believe They Are Supreme Arbiters of the Law

By comparing the results of an in-depth investigation by think tank Political Research Associates with ICE's list of 287(g)-participating sheriffs, we found 23 (17%) 287(g)-participating sheriffs<sup>162</sup> who are aligned with the so-called "Patriot movement," in particular, the Constitutional Sheriffs and Peace Officers Association (CSPOA).<sup>163</sup> CSPOA promotes the fringe and unsound legal theory that local sheriffs have ultimate authority over the state and federal governments, and that sheriffs are the supreme arbiters of the law.<sup>164</sup>

In an October 2021 report, the Anti-Defamation League detailed "the widespread and alarmingly effective efforts of the Constitutional Sheriffs and Peace Officers Association and its founder, Richard Mack, to recruit law enforcement into the anti-government 'patriot' movement."<sup>165</sup> Mack is a former sheriff who crisscrosses the country promoting his organization to law enforcement officers; in Texas and Montana, three of his events were officially certified to qualify as "continuing education" credit for law enforcement officers in attendance. William Potter Gale, an early advocate of the movement, wrote under the pen name Col. Ben Cameron<sup>166</sup> – drawn from a character from the infamous racist film *The Birth of a Nation* – that "the county Sheriff is the ONLY LEGAL LAW ENFORCEMENT OFFICER IN THE UNITED STATES OF AMERICA!"<sup>167</sup>

Political Research Associates’ investigation shows that CSPOA sheriffs have propagated antisemitic and false conspiracy theories,<sup>168</sup> created extrajudicial militias and “posses,”<sup>169</sup> and defied federal health directives related to the pandemic.<sup>170</sup> “We expect to see an upwards trend of law enforcement working alongside privately trained militia, resulting in extrajudicial harassment and targeting of political and racialized ‘others,’” warns the think tank.<sup>171</sup>

CSPOA works closely with the Oath Keepers, a militia organization notorious for recruiting current and former law enforcement officials and military members to join its ranks, to promote defiance when a sheriff disagrees with the federal government.<sup>172</sup> Federal prosecutors have charged leaders and members of the Oath Keepers with seditious conspiracy based on their alleged actions to support the January 6, 2021, storming of the U.S. Capitol building.<sup>173</sup> As the Armed Conflict Location and Event Data Project notes, Oath Keepers leadership called on former President Trump to invoke the Insurrection Act to empower the group to help him stay in office, and describes its armed training as preparation for confrontation with Black Lives Matter movement activists.<sup>174</sup>

### **Implications for Biden Administration’s Efforts to Limit Indiscriminate Deportations**

There is a real risk that 287(g) sheriffs who believe they have greater authority than the federal government and are seeking to preserve anti-immigrant, anti-human rights policies could subvert the Biden administration’s immigration reforms at will, including through their exploitation of the 287(g) program itself. This is unfortunately the case because of the deficiencies in ICE’s oversight of the program noted below in the section entitled “Failed Internal Oversight of 287(g) and the Need for Comprehensive Review.”

In particular, under the leadership of DHS Secretary Mayorkas, ICE has said it will limit arrests and deportation operations inside the United States to individuals who meet certain “enforcement

priority” categories.<sup>175</sup> This is a departure from the Trump administration’s indiscriminate pursuit of deportations (although the ACLU has strongly criticized these changes for not fully breaking with Trump’s harmful deportation policies).<sup>176</sup>

However, there is no indication that ICE is training and supervising state and local officers regarding these priorities; we have seen no policy guidance or directive to date. Without these measures, local officers participating in the Jail Enforcement model of the 287(g) program could arrest and issue Notices to Appear to individuals whom the administration does not intend to treat as enforcement priorities.

Moreover, racial profiling is likely to continue, in contravention of the administration’s racial equity and anti-discrimination commitments; in 287(g) jurisdictions, local officers will continue to engage in pretextual arrests on traffic and other minor offenses with the aim of putting more immigrants into the deportation pipeline, regardless of their individual characteristics. And 287(g)-participating law enforcement agencies could continue to screen all individuals who are foreign-born, regardless of whether they fit into “enforcement priority” categories.

Hypothetically, the local ICE field office would provide a safety valve, declining to pursue the deportation of such individuals. But there is ample evidence that, to date, ICE field offices are interpreting the enforcement priority framework in widely divergent ways, leaving individuals vulnerable to wrongful arrest, detention, and deportation.<sup>177</sup> Moreover, advocates are concerned that ICE headquarters cannot effectively monitor and supervise ICE field offices’ implementation of the “enforcement priority” framework, a concern that would extend to the state and local officers with which ICE field offices are working.<sup>178</sup>

## 65% of 287(g)-Participating Agencies Have Records of Racial Profiling and Other Civil Rights Violations

We found that at least 65% of 287(g)-participating agencies (including 70% of participating sheriffs) have records exhibiting a pattern of racial profiling and other civil rights violations. Among the most common is excessive use of force in and outside of the jail. In some cases, law enforcement engaged in racialized violence against Black and Brown individuals, including immigrants.

The Trump administration signed or renewed agreements with these agencies, reports of recent abuses notwithstanding, and since President Biden took office, these agreements remain in place. For example:

- DHS terminated Alamance County, North Carolina’s 287(g) agreement in 2012, following a two-year Department of Justice investigation that found a pattern of discriminatory policing against Latinx people.<sup>179</sup> Sheriff Terry Johnson subsequently continued his pattern of racist and anti-immigrant rhetoric; in a 2019 meeting on a budget request, he told the county’s board of commissioners that “criminal illegal immigrants” are “actually raping our citizens in many, many ways.”<sup>180</sup> With the same abusive sheriff at the helm of the department, the Trump administration re-initiated relationships with the department, signing an agreement to hold ICE detainees in the county jail in 2019 and signing a Warrant Service Officer agreement in 2020.<sup>181</sup>
- The Monroe County, Florida Sheriff’s Office joined the Warrant Service Officer program in October 2019 through an ICE agreement with no expiration date, despite a local media investigation that documented its practice of using pretextual traffic stops to conduct immigration enforcement and a lawsuit brought by the ACLU and its partners over the sheriff’s illegal detention of a U.S. citizen for immigration purposes.<sup>182</sup>

We also identified at least one former and three current 287(g)-participating sheriffs<sup>183</sup> who have used their offices to undermine First Amendment protections and norms of democratic accountability. The Biden administration should not sanction these actions by empowering these sheriffs through the 287(g) program. It is also inconsistent with the administration’s racial justice commitments for it to give its imprimatur to sheriffs who use their megaphones as public figures to stoke fear of racial justice activists and in some cases harass and abuse them. For example:

- In June 2020, Pinellas County, Florida Sheriff Bob Gualtieri reportedly made an agreement with a county judge to detain Black Lives Matter protesters without bail overnight – a practice typically reserved for serious offenses – on the sole charge of unlawful assembly, a second-degree misdemeanor.<sup>184</sup> The ACLU of Florida argued that “[t]his oppressive practice, seemingly by design, has a chilling effect on the exercise of free speech by those who want to express their disapproval of excessive use of force by law enforcement.”<sup>185</sup>
- In Alamance County, North Carolina, Sheriff Johnson and other local officials threatened protestors with arrest and prohibited protests near a Confederate monument, prompting a lawsuit by the ACLU and others.<sup>186</sup> Days before the 2020 election, in a separate incident, Johnson’s deputies pepper sprayed and brutally dispersed a group of mostly Black marchers walking from a church to the polls during early voting. Children as young as 3 were pepper-sprayed by sheriff’s deputies after marchers held a moment of silence for George Floyd.<sup>187</sup> The ACLU of North Carolina and the Lawyers’ Committee for Civil Rights Under Law filed a lawsuit against the department.<sup>188</sup>
- In 2020, the Culpeper County, Virginia, Sheriff used the department’s official social media pages to denounce and stoke fear of the Black Lives Matter movement and protests for social and racial justice. “Citizens should alert themselves to the true nature of this violence and realize the intent is for it to continue across our nation

during the months ahead,” said a post attributed to the sheriff. “Antifa and the Black Lives Matter movement is not [sic] peaceful and at their heart are violent. They may bring their violence to any community at any time and especially where they see weakness in local government officials.”<sup>189</sup> The sheriff’s office repeated an apparently false accusation Black Lives Matter protestors had violently attacked men in Roanoke.<sup>190</sup> It reshared an article warning: “Chaos is coming to Mayberry. The majority of Americans still have no idea that they are living in the midst of a low-boil Civil War.”<sup>191</sup> Local residents considered organizing a lawsuit and recall attempt against Jenkins.<sup>192</sup> In a subsequent social media post, the sheriff acknowledged that local community protests had been peaceful, but doubled down on his decision to share the apparently fabricated story.<sup>193</sup>

## 77% of Participating Jails and Prisons Have Records of Inhumane Conditions, Ill Treatment, and Other Abuses Against Detained Individuals

At least 77% of 287(g)-participating agencies are running detention facilities with records of inhumane conditions, ill treatment including excessive use of force, and a range of other civil rights violations. As described previously, the 287(g) program, along with other immigration enforcement programs that tap state and local law enforcement agencies to assist in immigration enforcement, prolongs immigrants’ time in local jails and state prisons.

Moreover, when the federal government partners with these jails and prisons through the 287(g) program, it tacitly sanctions these conditions. In May 2021, DHS Secretary Mayorkas announced that the agency would end both its detention agreement and 287(g) agreement with Bristol County, Massachusetts, emphasizing that “there is ample evidence that [Bristol’s] treatment of detained individuals and the conditions of detention are unacceptable” and signaling a willingness to take

similar action against other counties participating in the 287(g) program.<sup>194</sup>

Far too many people are held in conditions that threaten their health, safety, and human dignity in state and local detention facilities throughout the country. The Biden administration should not give its imprimatur to these abuses by maintaining 287(g) agreements with abusive state and local agencies. For example:

- A 2020 Department of Justice investigation concluded that the Massachusetts Department of Corrections, with which DHS entered a 287(g) agreement in 2008, “fails to properly supervise and accommodate prisoners suffering from serious mental health issues...and thus protect prisoners from serious harm in violation of the constitution.”<sup>195</sup>
- In 2021, a federal judge ruled that the Arizona Department of Corrections, with which DHS entered a 287(g) agreement in 2005, was “repeatedly violating” a 2015 settlement agreement over widespread and systemic unconstitutional conditions in the state prisons, including failures in healthcare that led to deaths and prolonged isolation and abuse in the department’s maximum security units.<sup>196</sup> The federal judge wrote in her decision that the department “has always deflected their failures and employed scorched-earth tactics to oppose every attempt to resolve outstanding noncompliance.”<sup>197</sup>
- At least 21 people died in the custody of the sheriff’s department in Tarrant County, Texas, in 2020.<sup>198</sup>
- At least 47 people have died in the custody of the East Baton Rouge Parish, Louisiana, Sheriff’s Office since 2012.<sup>199</sup>



# Failed Internal Oversight of 287(g) and the Need for Comprehensive Review

Under Secretary Mayorkas' leadership, DHS has sought to limit ICE's civil arrest and deportation operations inside the United States to "those who pose a threat to national security, public safety, and border security and thus threaten America's well-being."<sup>200</sup> The ACLU has expressed concern with the overbreadth of these enforcement priorities.<sup>201</sup> In addition, ICE has troublingly retained the ability to arrest and deport far more immigrants than intended by DHS leadership by using a variety of tools to tap state and local resources, including the 287(g) program. Indeed, the history of the 287(g) program shows that ICE has always failed to limit the program to its enforcement priorities, and negligible-to-nonexistent oversight is likely a root cause. Moreover, ICE and 287(g)-participating law enforcement agencies are not doing enough to track and address concerns about the operation of the program, stymying congressionally imposed requirements.

## Lessons from the Obama Era

In 2010, the DHS Office of Inspector General (OIG) published a report expressing a lack of confidence that the 287(g) program's "resources are being appropriately targeted toward aliens who pose the greatest risk to public safety and the community."<sup>202</sup> While ICE claimed at the time that 287(g)'s mandate was to focus on noncitizens who pose a threat to national security or are dangers to the community, OIG found that less than 10% of individuals it sampled were ICE "Level 1" offenders (individuals charged or convicted with serious crimes, as the Obama administration defined them).<sup>203</sup>

The same report found that local law enforcement agencies used the guise of street operations focused on "minor offenses and violations of local ordinances" for the actual purpose of immigration enforcement, despite ICE's claim at the time that the program was "not designed to allow state and local agencies to perform random street operations."<sup>204</sup> In light of these and other problems, the OIG urged "a comprehensive process for assessing, modifying, and terminating current agreements," which, to our knowledge, has still not been put into place.

## DHS's Supervision of the Program Is Still Failing

The flaws the OIG identified in 2010 remain and have festered, particularly in recent years. Nowhere is this more evident than in the exponential expansion of the program under the Trump administration.

A 2018 OIG report found that under the Trump administration, ICE approved expansion of the program "without planning for a corresponding increase in [ICE] program managing staffing" to oversee the new participating state and local law enforcement agencies, which includes reviewing and signing off on all paperwork local officers prepare, including ICE detainers.<sup>205</sup> ICE also failed to plan for an increase in resources "ensuring participants are fully trained."<sup>206</sup> In 2018, OIG determined that ICE needed 40 more 287(g) supervisors. But according to the Government Accountability Office's (GAO) January 2021 report, ICE has hired just an additional 13 supervisors since then.<sup>207</sup>



Additionally, the GAO found that under the Trump administration, ICE implemented and expanded the Warrant Service Officer model of the 287(g) program without any formal oversight mechanism. In 2020, ICE’s Office of Professional Responsibility determined it did not need to conduct oversight of Warrant Service Officer model agreements because of the limited scope of responsibilities it delegates to state and local law enforcement agencies.<sup>208</sup> At the same time, ICE required Warrant Service Officer participating officers to undergo just one day of training to begin and required no follow-up training, compared to the required four-week training and one-week refresher training required every two years for Jail Enforcement Model participants.<sup>209</sup>

While ICE continued to report to Congress on the purported success of the program, its metric for success was the expansion of the program – not public safety. The GAO emphasized that ICE failed to establish and track actual performance measures such as compliance with training requirements and percentage of “stakeholders satisfied with 287(g) program partnerships.”<sup>210</sup> ICE could not even determine the total number of 287(g) program encounters resulting in detentions or deportations.<sup>211</sup> “[O]ne program goal relating to expanding program does not tell ICE how well the 287(g) program is achieving its stated purpose of enhancing the safety and security of communities,” GAO admonished.<sup>212</sup>

GAO also found that during the Obama and Trump years, DHS’s internal watchdogs failed to take action on public complaints about the program. ICE’s Office of Professional Responsibility received 146 complaints about the program from 2015 to 2020. GAO concluded that 73% required ICE to take further action at the field office level, but ICE “did not have reasonable assurance” that field offices were actually investigating or resolving “nearly all” of these.<sup>213</sup> During the same period, the OIG received 135 complaints about the program and referred most of them to ICE, but did not request ICE respond with actions taken on the complaints.<sup>214</sup> And while DHS’s Office of Civil Rights and Civil Liberties has long had the responsibility to identify civil rights complaints against applicants for the Jail Enforcement model of

the 287(g) program, when the Trump administration started the Warrant Service Officer program, it cut the office out of any such oversight and approval role.<sup>215</sup>

## DHS’s Local Accountability Measure Is Failing

For Secretary Mayorkas, a key question is likely whether more robust DHS oversight could ensure that his vision for more targeted immigration enforcement is carried out. The answer is no. Even if DHS attempts greater oversight, it will not be sufficient because 287(g)-participating agencies are not adequately tracking and addressing public complaints about racial profiling, other civil rights violations, and anti-immigrant biases. Indeed, many 287(g)-participating agencies are failing to hold “steering committee” meetings, which are a minimum baseline of transparency and accountability.<sup>216</sup>

287(g)-participating agencies are not adequately tracking and addressing public complaints about racial profiling, other civil rights violations, and anti-immigrant biases.

### DHS Loosens Requirements

Initially, 287(g) agreements included a requirement that the local ICE field office and 287(g)-participating agency hold periodic steering committee meetings

to “review and assess the immigration enforcement activities conducted” by the local agency pursuant to the agreement.<sup>217</sup> But from the start, local law enforcement agencies did not comply. During the Obama administration, DHS’s oversight bodies found that few 287(g)-participating agencies held regular steering committee meetings.<sup>218</sup>

Then, in 2009, DHS made steering committee meetings optional, required only “as necessary,” undermining even the appearance of oversight.<sup>219</sup> “[I]t does nothing more than allow local officials to engage with members of the public at their discretion,” the Center for American Progress argued.<sup>220</sup> And as a 2010 OIG report noted, “By eliminating the requirement for steering committees and not fostering participation by community stakeholders, ICE reduces its ability to gain an independent perspective on 287(g) operations.”<sup>221</sup> The OIG report emphasized that steering committee meetings were vital to “identify issues and concerns regarding enforcement activities” and “offer stakeholders opportunities to communicate community-level perspectives.” Six months after the OIG’s report, ICE told OIG it was “in the process of finalizing guidance” to local law enforcement agencies on steering committees.<sup>222</sup> But in 2016, Inspector General Joseph Cuffari said that the 2016 revised MOA makes steering committee meetings optional.<sup>223</sup> In 2017, Congress stepped in, directing ICE to “require the establishment and regular use of steering committees ... including the participation of local stakeholders” through its annual appropriations bill.<sup>224</sup>

### **Local Law Enforcement Balks at Accountability Measures**

In 2019, the last year for which information is available, only 51 of 95 participating agencies actually held a steering committee meeting.<sup>225</sup> We found that many participating agencies balked at publicizing and holding steering committee and other local accountability meetings or appeared to subvert them, as corroborated by ICE’s last publicly available data. Additionally, multiple agencies refused information

requests by media, elected officials, and members of the public about their activities, especially related to the origin and operations of their 287(g) agreement.

In Frederick County, Maryland, Sheriff Chuck Jenkins has failed to provide information about the 287(g) program’s operation, including statistics on deportations and arrests, despite a formal inquiry filed by Rep. David Trone.<sup>226</sup> Jenkins canceled a steering committee meeting because of community opposition to the 287(g) agreement, calling it “continued disrespect from residents,” until he was required to hold it by a settlement agreement in an ACLU of Maryland case.<sup>227</sup> In July 2021, Jenkins held a virtual steering committee meeting that consisted of a one-sided presentation on the program rife with “fearmongering stereotypes of immigrants as criminals” and did not include an opportunity for real-time public comment.<sup>228</sup>

In Nueces County, Texas, local advocates called for a town hall meeting to discuss the sheriff’s 287(g) agreement prior to its renewal in 2020. Sheriff J.C. Hooper refused, saying, “I’m not going to participate in a choreographed political event because that’s exactly what their town hall meetings are.”<sup>229</sup> State records show expenses related to detaining undocumented immigrants in the Nueces County Jail increased from about \$2,400 in 2015 to more than \$193,000 in 2018. “This is a stunning increase that demands a broader community discussion,” said Claudia Rueda, a member of the Corpus Christi Immigration Coalition. “Taxpayer dollars, as well as the time and attention of local law enforcement, should be prioritized for local needs.” The sheriff, however, continued to refuse meetings and renewed the agreement with no expiration date.<sup>230</sup>

In Knox County, Tennessee, the sheriff’s office repeatedly rescheduled the steering committee meeting, flouting local requirements that notice of the meeting date and time be provided 30 days in advance. Local advocates called the move “a cynical attempt by [the Knox County Sheriff’s Office] and ICE to confuse the public and decrease the number of people who show up to speak out against this program.”<sup>231</sup>

In Rensselaer County, New York, the sheriff’s office repeatedly refused to hold a public forum where residents could voice their views prior to the adoption of the agreement; the sheriff said he was concerned it would become “a platform for protests.” After signing a 287(g) agreement, the sheriff provided little public notice of the single steering committee meeting the department held in 2019. The meeting was also conducted at the county jail, likely deterring community members uncomfortable with voluntarily entering a law enforcement space.<sup>232</sup>

## Congress Intends Serious Limits on the 287(g) Program

For several years, including in the most recent FY2022 appropriations bill, Congress has used the appropriations process to effectively prohibit ICE from continuing 287(g) agreements if the DHS Inspector General determines that the terms of a 287(g) agreement were “materially violated.”<sup>233</sup> Presumably, this would include situations where a local law enforcement agency is engaged in racial profiling, using arrests for minor criminal violations as a pretext to book people at local jails and run them through the 287(g) program, since this goes beyond the authority ICE delegates in the agreements. It arguably includes civil rights violations of many kinds, since language on the binding nature of federal civil rights laws is standard in 287(g) agreements. But given the oversight deficiencies noted above – by both local law enforcement agencies and ICE – it is unlikely that DHS will be able to detect whether a 287(g) agreement is materially violated, undermining Congress’ intent.<sup>234</sup>

Congress has also imposed reporting requirements on the 287(g) program. Through the appropriations process, it has required that DHS publish any applications for new or renewed 287(g) agreements on its website at least eight weeks prior to entering a new agreement – a requirement that would have greater effect if the Trump administration had not made most 287(g) agreements indefinite, rather than subject to periodic renewal.<sup>235</sup> Congress has also required that DHS report to congressional

committees and the public “regarding 287(g) steering committee membership and activities; performance data; the number of individuals placed into removal proceedings by 287(g)-designated officers; and any plans for future expansion of or changes to the program.”<sup>236</sup> Congress has also directed ICE, OIG, and CRCL to “provide rigorous oversight of the 287(g) program,” and ICE must notify Congress “prior to implementing any significant changes to the program, including any changes to training requirements, data collection, selection criteria, or the jurisdictions with which ICE has agreements.”<sup>237</sup>

All of these requirements reflect deep congressional concern about the 287(g) program. Many of them effectively require DHS to engage in a far more thorough review of the 287(g)-participating agencies, including into the patterns of civil rights violations and anti-immigrant rhetoric that we describe in this report, with a view to possibly terminating agreements. These congressional requirements buttress our recommendation that, if DHS will not end the program altogether, CRCL should conduct a review of each participating law enforcement agency’s record to determine whether termination is appropriate, and the review should include an opportunity for stakeholders to contribute reports, comments, and testimonials regarding the participating agency and impacted communities.

In February 2021, a group of over 60 members of Congress urged DHS Secretary Mayorkas to end the 287(g) program, warning that it and other programs “make communities less safe...increase racial profiling and harassment of immigrant communities and communities of color” and lead to “pretextual arrests” that disguise an “actual goal of identifying immigrants to detain for ICE.” Warning of “rampant racial profiling and use of unlawful police practices in violation of constitutional standards,” the group urged Mayorkas to “fulfill the president’s commitment to end 287(g) agreements entered into by the Trump administration, and to go further by dismantling the 287(g) program altogether.”<sup>238</sup>

# Recommendations and Conclusions

## To the Biden Administration:

- Commit to ending the 287(g) program, beginning by terminating agreements DHS entered into with the 54 law enforcement agencies that we identify in this report as having egregious records of civil rights violations, abusive jail and prison conditions, anti-immigrant statements, or advocacy of inhumane policies.
- Until the program is completely wound down:
  - Direct the DHS Office for Civil Rights and Civil Liberties to conduct a review of each remaining participating law enforcement agency's record to determine whether immediate termination is appropriate. Appropriately resource CRCL to conduct a full review and require that it include an opportunity for stakeholders to contribute reports, comments, and testimonials regarding the participating agency and impacted communities;
  - Require that any state and local agency seeking to enter into or renew a 287(g) agreement demonstrate that it has provided the public with information about the prospective agreement and a meaningful opportunity to offer input through public community meetings; and
  - Address racial profiling by requiring that all participating law enforcement agencies collect data on traffic stops, including the

race and ethnicity of the motorist and passengers, the reason for the stop, and the result of the stop.

## To Congress:

- End or significantly reduce federal funding for the 287(g) program; and
- Use the appropriations process to require that DHS terminate agreements with law enforcement agencies with records of civil rights violations, exercise more robust oversight over participating law enforcement agencies, publicly report on alleged civil rights violations and other complaints by members of the public, and ensure that ICE and participating law enforcement agencies hold public steering committee meetings with advance notice.

## To State and Local Governments:

- Repeal state or local laws that purport to require collaboration with ICE, including those that local sheriffs have interpreted as requiring they join the 287(g) program; and
- Enact state laws and local ordinances that increase public safety for all by requiring that state and local law enforcement end participation in the 287(g) program and other forms of collaboration with federal immigration enforcement.

## 54 287(g) Agreements the Biden Administration Should Immediately Terminate

The ACLU urges DHS to end the 287(g) program entirely, beginning with the 287(g)-participating state and local agencies (referred to as “departments”) listed below. Short of ending the program entirely, we urge DHS to engage in a review of each law enforcement agency’s record to determine whether termination is appropriate, as the DHS Office of Inspector General urged in 2010.<sup>239</sup> The list on the following page highlights 287(g) agreements where termination is counseled due to the law enforcement agency’s:

- **Record of a pattern of racial profiling and civil rights violations**, including disproportionate targeting of racial minorities, excessive use of force, and unlawful stops, searches, or arrests, all of which have bearing on whether it is an appropriate partner and whether participation in the 287(g) program is contributing to civil rights violations;
- **Record of poor jail or prison conditions** and treatment of individuals in its custody, which may include myriad civil rights violations;
- **Anti-immigrant, xenophobic statements** that create a climate of fear and mistrust for immigrant communities which the Biden administration should not abet;
- **Advocacy of inhumane immigration and border policies**, especially at the federal level, includes participating in efforts to preserve the Trump administration’s anti-immigrant, anti-human rights policies; and

We considered additional areas that may influence the Biden administration’s decision to terminate the program, including:

- Record of evading accountability to the public by withholding information about the 287(g) program or the department’s activities on immigration and other law enforcement activities, or refusing to participate in community meetings.
  - Expressions of racism or affiliation with white supremacist groups;
  - Departmental or sheriff misconduct, mismanagement, or malfeasance; and
  - Local community concerns and objections.
1. Etowah County, AL
  2. Alaska Department of Corrections, AK
  3. Arizona Department of Corrections, Rehabilitation and Reentry, AZ
  4. La Paz County, AZ
  5. Mesa Police Department, AZ
  6. Pinal County, AZ
  7. Florida Department of Corrections, FL
  8. Bay County, FL
  9. Brevard County, FL
  10. Charlotte County, FL
  11. Collier County, FL
  12. Columbia County, FL
  13. Hendry County, FL
  14. Hernando County, FL
  15. Indian River County, FL
  16. Jacksonville Sheriff’s Office (Duval County), FL
  17. Lake County, FL
  18. Manatee County, FL
  19. Marion County, FL



20. Martin County, FL
21. Monroe County, FL
22. Pasco County, FL
23. Pinellas County, FL
24. Polk County, FL
25. Santa Rosa County, FL
26. Georgia Department of Corrections, GA
27. Hall County, GA
28. Jackson County, KS
29. East Baton Rouge Parish, LA
30. Massachusetts Department of Correction, MA
31. Barnstable County, MA
32. Cecil County, MD
33. Frederick County, MD
34. Alamance County, NC
35. Henderson County, NC
36. Randolph County, NC
37. Dakota County, NE
38. Rensselaer County Sheriff's Office, NY
39. Canadian County Sheriff's Office, OK
40. Okmulgee County Criminal Justice Authority, OK
41. Tulsa County, OK
42. Knox County, TN
43. Aransas County Sheriff's Office, TX
44. Galveston County Sheriff's Office, TX
45. Goliad County, TX
46. Jackson County Sheriff's Office, TX
47. Montgomery County, TX
48. Nueces County, TX
49. Smith County Sheriff's Office, TX
50. Tarrant County Sheriff's Office, TX
51. Waller County, TX
52. Walker County, TX
53. Culpeper County, VA
54. Waukesha County, WI

*Please see the accompanying supplement to this report for a full description of the records of these agencies.*

## Conclusion

This comprehensive review of all 142 state and local agencies participating in ICE’s 287(g) program revealed widespread violations of civil rights, strong anti-immigrant rhetoric fueling racist practices, poor detention conditions, and promotion of inhumane policies. While the Trump administration is no doubt responsible for facilitating the exponential growth of the 287(g) program as part of its callous assault on immigrants and civil liberties, it is now up to the Biden administration to decide whether it wants to continue to enlist sheriffs and other officials notorious for racism, xenophobia, and wanton brutality, or fulfill their promise to voters by ending 287(g) agreements and rebuilding trust.

Immigrant families, community leaders, and voters demanding change are counting on the Biden administration to deliver relief for people who have been targeted for abuse. The administration will not be able to realize its mandate of turning away from Trump’s legacy of abuse while still empowering state and local officials who are unmistakably anti-immigrant or racist, spread blatant lies, demonize immigrants, and use their authorities to attack immigrants.

Problems with the 287(g) program predate Biden’s presidency and even the Trump era, but there is now a vital opportunity to make meaningful change. The choice is clear: Continue to partner with officials who try to instill fear, engage in racial profiling, and violate civil rights, or work toward a vision focused on justice, safety, and equality under the law. It should be an easy one.



Photo by Saul Young/AP

Community members express their opposition to the harmful effects of 287(g).

# Appendix

Our review is a starting point, but it is not a sufficient basis for understanding the entirety of the 287(g) program or all 287(g) agreements, nor is our failure to include findings regarding a particular 287(g)-participating state or local agency a basis for assuming that its record is unproblematic, or that its agreement need not be terminated. Our findings are necessarily incomplete because, in many counties with 287(g) agreements, documentation of civil rights violations is limited by factors such as limited English proficiency of impacted communities and corresponding limits on their ability to report abuses; limited access to low-cost or pro bono legal counsel and a corresponding absence of civil rights lawsuits; the absence of grassroots activist networks and resources;

a lack of local news reporting; or a lack of robust federal, state, or local requirements for collecting and reporting abuses by law enforcement agencies, particularly racial profiling. Indeed, those who are victims of racial profiling are less likely to report the abuse due to fear of retaliation or reluctance to seek protection from the same legal system that victimized them, such that our count of racial profiling and civil rights abuses in 287(g) counties is likely vastly under-reported.

A more detailed assessment of 54 agencies identified as among the most egregious is provided in a supplement to this report available at [aclu.org/sheriffs-report-supplement](https://www.aclu.org/sheriffs-report-supplement).

TABLE A1

## Results of ACLU's Review of the Local Agencies with 287(g) Agreements and Abusive or Concerning Practices

| State   | Participating Agency              | Year 287(g) Agreement Began | Civil Rights Violations and Racial Profiling | Anti-Immigrant Statements | Inhumane Jail Conditions | Advocate Inhumane Federal Policies |
|---------|-----------------------------------|-----------------------------|--|---------------------------|--------------------------|------------------------------------|
| ALASKA  | Etowah County Sheriff's Office    | 2008                        | ✓  |                           | ✓                        |                                    |
| ALASKA  | Kodiak Police Department          | 2020                        | ✓  |                           |                          | N/A                                |
| ALASKA  | Department of Corrections         | 2020                        | ✓  |                           | ✓                        | N/A                                |
| ARIZONA | Mesa Police Department            | 2009                        | ✓  |                           |                          | N/A                                |
| ARIZONA | Arizona Department of Corrections | 2005                        | ✓  |                           | ✓                        | N/A                                |
| ARIZONA | Yavapai County Sheriff's Office   | 2008                        | ✓  |                           | ✓                        | ✓                                  |
| ARIZONA | La Paz County Sheriff's Office    | 2020                        | ✓  | ✓                         | ✓                        | ✓                                  |

| State    | Participating Agency               | Year 287(g) Agreement Began | Civil Rights Violations and Racial Profiling | Anti-Immigrant Statements | Inhumane Jail Conditions | Advocate Inhumane Federal Policies |
|----------|------------------------------------|-----------------------------|--|---------------------------|--------------------------|------------------------------------|
| ARIZONA  | Pinal County Sheriff's Office      | 2008                        | ✓  | ✓                         | ✓                        | ✓                                  |
| ARKANSAS | Craighead County Sheriff's Office  | 2019                        |  |                           | ✓                        |                                    |
| ARKANSAS | Benton County Sheriff's Office     | 2007                        | ✓  | ✓                         | ✓                        | ✓                                  |
| COLORADO | Teller County Sheriff's Office     | 2019                        | ✓  | ✓                         |                          | ✓                                  |
| FLORIDA  | Calhoun County Sheriff's Office    | 2019                        |  |                           |                          |                                    |
| FLORIDA  | Jefferson County Sheriff's Office  | 2019                        |  |                           |                          |                                    |
| FLORIDA  | Liberty County Sheriff's Office    | 2019                        |  |                           |                          |                                    |
| FLORIDA  | Madison County Sheriff's Office    | 2019                        |  |                           |                          |                                    |
| FLORIDA  | Wakulla County Sheriff's Office    | 2019                        |  |                           |                          |                                    |
| FLORIDA  | Clay County Sheriff's Office       | 2017                        |  |                           | ✓                        |                                    |
| FLORIDA  | DeSoto County Sheriff's Office     | 2019                        |  |                           | ✓                        |                                    |
| FLORIDA  | Franklin County Sheriff's Office   | 2019                        |  |                           | ✓                        |                                    |
| FLORIDA  | Hamilton County Sheriff's Office   | 2019                        | ✓  |                           |                          |                                    |
| FLORIDA  | Leon County Sheriff's Office       | 2019                        |  |                           | ✓                        |                                    |
| FLORIDA  | Okeechobee County Sheriff's Office | 2019                        |  |                           | ✓                        |                                    |
| FLORIDA  | Seminole County Sheriff's Office   | 2019                        |  |                           | ✓                        |                                    |
| FLORIDA  | Sumter County Sheriff's Office     | 2019                        |  |                           | ✓                        |                                    |
| FLORIDA  | Suwannee County Sheriff's Office   | 2019                        |  |                           |                          |                                    |
| FLORIDA  | Taylor County Sheriff's Office     | 2019                        |  |                           | ✓                        |                                    |
| FLORIDA  | Broward County Sheriff's Office    | 2019                        | ✓  |                           | ✓                        |                                    |
| FLORIDA  | Charlotte County Sheriff's Office  | 2019                        | ✓  |                           | ✓                        |                                    |
| FLORIDA  | Columbia County Sheriff's Office   | 2019                        | ✓  |                           | ✓                        |                                    |
| FLORIDA  | Florida Department of Corrections  | 2020                        | ✓  |                           | ✓                        |                                    |
| FLORIDA  | Highlands County Sheriff's Office  | 2019                        | ✓  |                           | ✓                        |                                    |
| FLORIDA  | Holmes County Sheriff's Office     | 2019                        | ✓  | ✓                         |                          |                                    |

| State   | Participating Agency                  | Year 287(g) Agreement Began | Civil Rights Violations and Racial Profiling | Anti-Immigrant Statements | Inhumane Jail Conditions | Advocate Inhumane Federal Policies |
|---------|---------------------------------------|-----------------------------|--|---------------------------|--------------------------|------------------------------------|
| FLORIDA | Lafayette County Sheriff's Office     | 2019                        |  | ✓                         |                          | ✓                                  |
| FLORIDA | Manatee County Sheriff's Office       | 2008                        | ✓  |                           | ✓                        |                                    |
| FLORIDA | Monroe County Sheriff's Office        | 2019                        | ✓  |                           | ✓                        |                                    |
| FLORIDA | Nassau County Sheriff's Office        | 2019                        | ✓  |                           | ✓                        |                                    |
| FLORIDA | Osceola County Corrections Department | 2019                        | ✓  |                           | ✓                        | N/A                                |
| FLORIDA | Sarasota County Sheriff's Office      | 2019                        | ✓  |                           | ✓                        |                                    |
| FLORIDA | St Johns County Sheriff's Office      | 2019                        | ✓  |                           | ✓                        |                                    |
| FLORIDA | Baker County Sheriff's Office         | 2019                        |  | ✓                         | ✓                        | ✓                                  |
| FLORIDA | Bay County Sheriff's Office           | 2008                        |  | ✓                         | ✓                        | ✓                                  |
| FLORIDA | Bradford County Sheriff's Office      | 2019                        |  | ✓                         | ✓                        | ✓                                  |
| FLORIDA | Hendry County Sheriff's Office        | 2019                        | ✓  | ✓                         | ✓                        |                                    |
| FLORIDA | Jacksonville Sheriff's Office         | 2008                        | ✓  |                           | ✓                        | ✓                                  |
| FLORIDA | Lake County Sheriff's Office          | 2019                        | ✓  | ✓                         | ✓                        |                                    |
| FLORIDA | Levy County Sheriff's Office          | 2019                        | ✓  | ✓                         |                          | ✓                                  |
| FLORIDA | Pasco County Sheriff's Office         | 2017                        | ✓  |                           | ✓                        | ✓                                  |
| FLORIDA | Putnam County Sheriff's Office        | 2019                        |  | ✓                         | ✓                        | ✓                                  |
| FLORIDA | Walton County Sheriff's Office        | 2019                        | ✓  |                           | ✓                        | ✓                                  |
| FLORIDA | Brevard County Sheriff's Office       | 2008; 2019                  | ✓  | ✓                         | ✓                        | ✓                                  |
| FLORIDA | Collier County Sheriff's Office       | 2007                        | ✓  | ✓                         | ✓                        | ✓                                  |
| FLORIDA | Flagler County Sheriff's Office       | 2019                        | ✓  | ✓                         | ✓                        | ✓                                  |
| FLORIDA | Hernando County Sheriff's Office      | 2018                        | ✓  | ✓                         | ✓                        | ✓                                  |
| FLORIDA | Indian River County Sheriff's Office  | 2019                        | ✓  | ✓                         | ✓                        | ✓                                  |
| FLORIDA | Marion County Sheriff's Office        | 2019                        | ✓  | ✓                         | ✓                        | ✓                                  |
| FLORIDA | Martin County Sheriff's Office        | 2020                        | ✓  | ✓                         | ✓                        | ✓                                  |



| State         | Participating Agency                     | Year 287(g) Agreement Began | Civil Rights Violations and Racial Profiling | Anti-Immigrant Statements | Inhumane Jail Conditions | Advocate Inhumane Federal Policies |
|---------------|--|-----------------------------|--|---------------------------|--------------------------|------------------------------------|
| FLORIDA       | Pinellas County Sheriff's Office         | 2019                        | ✓  | ✓                         | ✓                        | ✓                                  |
| FLORIDA       | Polk County Sheriff's Office             | 2019                        | ✓  | ✓                         | ✓                        | ✓                                  |
| FLORIDA       | Santa Rosa County Sheriff's Office       | 2019                        | ✓  | ✓                         | ✓                        | ✓                                  |
| GEORGIA       | Whitfield County Sheriff's Office        | 2008                        | ✓  |                           |                          |                                    |
| GEORGIA       | Floyd County Sheriff's Office            | 2018                        | ✓  |                           | ✓                        |                                    |
| GEORGIA       | Georgia Department of Corrections        | 2018                        | ✓  |                           | ✓                        | N/A                                |
| GEORGIA       | Hall County Sheriff's Office             | 2008                        | ✓  |                           | ✓                        |                                    |
| GEORGIA       | Oconee County Sheriff's Office           | 2019                        |  | ✓                         | ✓                        | ✓                                  |
| GEORGIA       | Polk County Sheriff's Office             | 2019                        |  | ✓                         | ✓                        | ✓                                  |
| IDAHO         | Power County Sheriff's Office            | 2020                        |  |                           |                          |                                    |
| IDAHO         | Gooding County Sheriff's Office          | 2020                        | ✓  | ✓                         |                          | ✓                                  |
| KANSAS        | Finney County Sheriff's Office           | 2020                        |  |                           |                          | ✓                                  |
| KANSAS        | Jackson County Sheriff's Office          | 2020                        | ✓  | ✓                         | ✓                        | ✓                                  |
| LOUISIANA     | Ouachita Parish Sheriff's Office         | 2019                        |  | ✓                         |                          |                                    |
| LOUISIANA     | East Baton Rouge Parish Sheriff's Office | 2017                        | ✓  |                           | ✓                        |                                    |
| MARYLAND      | Cecil County Sheriff's Office            | 2019                        | ✓  | ✓                         | ✓                        |                                    |
| MARYLAND      | Harford County Sheriff's Office          | 2016                        | ✓  | ✓                         | ✓                        | ✓                                  |
| MARYLAND      | Frederick County Sheriff's Office        | 2008                        | ✓  | ✓                         | ✓                        | ✓                                  |
| MASSACHUSETTS | Massachusetts Department of Correction   | 2007                        | ✓  |                           | ✓                        | N/A                                |
| MASSACHUSETTS | Barnstable County Sheriff's Office       | 2018                        | ✓  | ✓                         | ✓                        | ✓                                  |
| MONTANA       | Gallatin County Sheriff's Office         | 2020                        | ✓  | ✓                         |                          |                                    |
| MONTANA       | Flathead County Sheriff's Department     | 2020                        | ✓  |                           | ✓                        |                                    |
| NEBRASKA      | Dakota County Sheriff's Office           | 2018                        | ✓  | ✓                         | ✓                        |                                    |

| State          | Participating Agency   | Year 287(g) Agreement Began | Civil Rights Violations and Racial Profiling | Anti-Immigrant Statements | Inhumane Jail Conditions | Advocate Inhumane Federal Policies |
|----------------|--|-----------------------------|--|---------------------------|--------------------------|------------------------------------|
| NEVADA         | Nye County Sheriff's Office                                    | 2017                        | ✓  | ✓                         | ✓                        | ✓                                  |
| NEW JERSEY     | Cape May County Sheriffs Office<br><i>Inactive</i>             | 2017                        |  | ✓                         |                          | ✓                                  |
| NEW JERSEY     | Monmouth County Sheriff's Office (Addendum)<br><i>Inactive</i> | 2009                        | ✓  | ✓                         | ✓                        | ✓                                  |
| NEW YORK       | Rensselaer County Sheriff's Office                             | 2018                        | ✓  | ✓                         | ✓                        | ✓                                  |
| NORTH CAROLINA | Albermarle District Jail                                       | 2020                        |  |                           |                          | N/A                                |
| NORTH CAROLINA | Duplin County Sheriff's Office                                 | 2020                        |  |                           |                          |                                    |
| NORTH CAROLINA | Yancey County Sheriff's Office                                 | 2020                        |  |                           |                          |                                    |
| NORTH CAROLINA | Brunswick County Sheriff's Office                              | 2020                        |  |                           | ✓                        |                                    |
| NORTH CAROLINA | Cabarrus County Sheriff's Office                               | 2007                        |  | ✓                         |                          | ✓                                  |
| NORTH CAROLINA | Gaston County Sheriff's Office                                 | 2007                        |  |                           | ✓                        |                                    |
| NORTH CAROLINA | Nash County Sheriff's Office                                   | 2018                        |  |                           | ✓                        |                                    |
| NORTH CAROLINA | Avery County Sheriff's Office                                  | 2020                        |  | ✓                         |                          | ✓                                  |
| NORTH CAROLINA | Caldwell County Sheriff's Office                               | 2020                        |  | ✓                         |                          | ✓                                  |
| NORTH CAROLINA | Rockingham County Sheriff's Office                             | 2019                        |  | ✓                         | ✓                        | ✓                                  |
| NORTH CAROLINA | Alamance County Sheriff's Office                               | 2007                        | ✓  | ✓                         | ✓                        | ✓                                  |
| NORTH CAROLINA | Cleveland County Sheriff's Office                              | 2020                        | ✓  | ✓                         | ✓                        | ✓                                  |
| NORTH CAROLINA | Henderson County Sheriff's Office                              | 2008                        | ✓  | ✓                         | ✓                        | ✓                                  |
| NORTH CAROLINA | Lincoln County Sheriff's Office                                | 2020                        | ✓  | ✓                         | ✓                        | ✓                                  |
| NORTH CAROLINA | Randolph County Sheriff's Office                               | 2020                        | ✓  | ✓                         | ✓                        | ✓                                  |
| OKLAHOMA       | Okmulgee County Criminal Justice Authority                     | 2018                        | ✓  |                           | ✓                        | N/A                                |
| OKLAHOMA       | Canadian County Sheriff's Office                               | 2018                        | ✓  | ✓                         | ✓                        | ✓                                  |
| OKLAHOMA       | Tulsa County Sheriff's Office                                  | 2007                        | ✓  | ✓                         | ✓                        | ✓                                  |
| SOUTH CAROLINA | Horry County Sheriff's Office                                  | 2017                        | ✓  |                           | ✓                        |                                    |

| State          | Participating Agency                 | Year 287(g) Agreement Began | Civil Rights Violations and Racial Profiling | Anti-Immigrant Statements | Inhumane Jail Conditions | Advocate Inhumane Federal Policies |
|----------------|--------------------------------------|-----------------------------|--|---------------------------|--------------------------|------------------------------------|
| SOUTH CAROLINA | York County Sheriff's Office         | 2007                        | ✓  |                           | ✓                        |                                    |
| SOUTH CAROLINA | Lexington County Sheriff's Office    | 2010                        | ✓  | ✓                         | ✓                        |                                    |
| TENNESSEE      | Greene County Sheriff's Office       | 2019                        | ✓  | ✓                         | ✓                        | ✓                                  |
| TENNESSEE      | Knox County Sheriff's Office         | 2017                        | ✓  | ✓                         | ✓                        | ✓                                  |
| TEXAS          | Aransas County Sheriff's Office      | 2017                        | ✓  |                           | ✓                        |                                    |
| TEXAS          | Rockwall County Sheriff's Office     | 2018                        | ✓  | ✓                         |                          |                                    |
| TEXAS          | Burnet County Sheriff's Office       | 2019                        |  | ✓                         | ✓                        |                                    |
| TEXAS          | Calhoun County Sheriff's Office      | 2017                        |  | ✓                         |                          | ✓                                  |
| TEXAS          | DeWitt County Sheriff's Office       | 2017                        |  | ✓                         | ✓                        | ✓                                  |
| TEXAS          | Jackson County Sheriff's Office      | 2017                        |  | ✓                         | ✓                        | ✓                                  |
| TEXAS          | Matagorda County Sheriff's Office    | 2017                        | ✓  |                           | ✓                        |                                    |
| TEXAS          | Waller County Sheriff's Office       | 2017                        | ✓  |                           | ✓                        |                                    |
| TEXAS          | Chambers County Sheriff's Office     | 2017                        |  | ✓                         | ✓                        | ✓                                  |
| TEXAS          | Goliad County Sheriff's Office       | 2018                        | ✓  | ✓                         | ✓                        | ✓                                  |
| TEXAS          | Kleberg County Sheriff's Office      | 2020                        |  | ✓                         | ✓                        | ✓                                  |
| TEXAS          | Lavaca County Sheriff's Office       | 2017                        | ✓  | ✓                         |                          | ✓                                  |
| TEXAS          | Refugio County Sheriff's Office      | 2017                        | ✓  | ✓                         | ✓                        | ✓                                  |
| TEXAS          | San Patricio County Sheriff's Office | 2020                        |  | ✓                         | ✓                        | ✓                                  |
| TEXAS          | Terrell County Sheriff's Office      | 2020                        |  | ✓                         | ✓                        | ✓                                  |
| TEXAS          | Walker County Sheriff's Office       | 2017                        | ✓  | ✓                         | ✓                        |                                    |
| TEXAS          | Wharton County Sheriff's Office      | 2017                        |  | ✓                         | ✓                        | ✓                                  |
| TEXAS          | Galveston County Sheriff's Office    | 2017                        | ✓  | ✓                         | ✓                        | ✓                                  |
| TEXAS          | Kendall County Sheriff's Office      | 2018                        | ✓  | ✓                         | ✓                        | ✓                                  |
| TEXAS          | Lubbock County Sheriff's Office      | 2016                        | ✓  | ✓                         | ✓                        | ✓                                  |

| State     | Participating Agency                | Year 287(g) Agreement Began | Civil Rights Violations and Racial Profiling | Anti-Immigrant Statements | Inhumane Jail Conditions | Advocate Inhumane Federal Policies |
|-----------|-------------------------------------|-----------------------------|--|---------------------------|--------------------------|------------------------------------|
| TEXAS     | Montgomery County Sheriff's Office  | 2017                        | ✓  | ✓                         | ✓                        | ✓                                  |
| TEXAS     | Nueces County Sheriff's Office      | 2018                        | ✓  | ✓                         | ✓                        | ✓                                  |
| TEXAS     | Potter County Sheriff's Office      | 2018                        | ✓  | ✓                         | ✓                        | ✓                                  |
| TEXAS     | Smith County Sheriff's Office       | 2017                        | ✓  | ✓                         | ✓                        | ✓                                  |
| TEXAS     | Tarrant County Sheriff's Office     | 2017                        | ✓  | ✓                         | ✓                        | ✓                                  |
| TEXAS     | Victoria County Sheriff's Office    | 2017                        | ✓  | ✓                         | ✓                        | ✓                                  |
| VIRGINIA  | Culpeper County Sheriff's Office    | 2018                        | ✓  | ✓                         | ✓                        | ✓                                  |
| WISCONSIN | Fond du Lac County Sheriff's Office | 2020                        |  |                           |                          |                                    |
| WISCONSIN | Lafayette County Sheriff's Office   | 2019                        |  |                           |                          |                                    |
| WISCONSIN | Mantowoc County Sheriff's Office    | 2020                        |  |                           |                          |                                    |
| WISCONSIN | Waushara County Sheriff's Office    | 2020                        |  |                           |                          |                                    |
| WISCONSIN | Marquette County Sheriff's Office   | 2020                        | ✓  |                           | ✓                        |                                    |
| WISCONSIN | Sheboygan County Sheriff's Office   | 2020                        |  | ✓                         | ✓                        |                                    |
| WISCONSIN | Brown County Sheriff's Office       | 2020                        | ✓  |                           | ✓                        | ✓                                  |
| WISCONSIN | Waukesha County Sheriff's Office    | 2018                        | ✓  | ✓                         | ✓                        |                                    |

Note: N/A = not applicable to the ten 287(g) participating agencies that are not sheriffs offices/departments (i.e., departments of corrections, police departments)

# Endnotes

- 1 “Celebrating the Immigrant Spirit: Sara Medrano’s Story,” ACLU of Maryland, July 11, 2019, <https://www.aclu-md.org/en/news/celebrating-immigrant-spirit-sara-medranos-story>.
- 2 Linda Poon, “CityLab: How Traffic Stops Lead to Deportation,” *Bloomberg*, June 9, 2021, <https://www.bloomberg.com/news/newsletters/2021-06-09/citylab-how-traffic-stops-lead-to-deportation>.
- 3 ACLU of Maryland, “Frederick Residents Challenge Unconstitutional Policing of Latinx People by Sheriff Chuck Jenkins,” press release, July 11, 2019, <https://www.aclu-md.org/en/press-releases/frederick-residents-challenge-unconstitutional-policing-latinx-people-sheriff-chuck>.
- 4 INA § 287(g).
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