



287(g) End-of-Year Report

April 12, 2022

Fiscal Year 2020 Report to Congress



**Homeland
Security**

U.S. Immigration and Customs Enforcement

Message from the Acting Director

April 12, 2022

I am pleased to present the following report, “287(g) End-of-Year Report” for Fiscal Year (FY) 2020, which has been prepared by U.S. Immigration and Customs Enforcement (ICE).

This report was compiled pursuant to direction in the FY 2020 Department of Homeland Security Appropriations Act (P.L. 116-93) and its accompanying Joint Explanatory Statement and House Report 116-180.

Pursuant to congressional guidelines, this report is being provided to the following Members of Congress:



The Honorable Lucille Roybal-Allard
Chairwoman, House Appropriations Subcommittee on Homeland Security

The Honorable Chuck Fleischmann
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable Chris Murphy
Chair, Senate Appropriations Subcommittee on Homeland Security

The Honorable Shelley Moore Capito
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

Inquiries related to this report may be directed to the ICE Office of Congressional Relations at (202) 732-4200.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tae D. Johnson', with a long horizontal line extending to the right.

Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement

Executive Summary

The following report provides an operational summary of the ICE 287(g) Program for FY 2020, which reflects implementation under Executive Order 13768, *Enhancing Public Safety in the Interior of the United States* issued under the prior administration and now rescinded. The 287(g) Program is implemented consistent with the Secretary's memorandum, *Guidelines for the Enforcement of Civil Immigration Law*, issued on September 30, 2021, and its prioritization of noncitizens who pose the greatest risk to national security, border security, and public safety. Partnerships with state and local law enforcement are essential to helping ICE focus its resources on the greatest threats, while ensuring that civil immigration enforcement is conducted in a way that protects civil rights and liberties.

Report Scope

P.L. 116-93, its Joint Explanatory Statement, and House Report 116-180 directed ICE to provide a report to the Committee on the 287(g) Program, to include:

- Details on steering committee membership and activities for participating jurisdictions;
- Performance data, including:
 - Nationality,
 - Level of criminality,
 - Enforcement priority level of individuals placed into removal proceedings by 287(g) designated officers, and
 - Funding;
- Any plans for future expansion of, or changes to, the program.



287(g) End-of-Year Annual Report

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I. Legislative Language

This report was compiled in response to direction set forth in the Fiscal Year (FY) 2020 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-93) and its accompanying Joint Explanatory Statement and House Report 116-180.

P.L. 116-93 states:

SEC. 217. Not later than 45 days after the date of enactment of this Act, the Director of U.S. Immigration and Customs Enforcement shall submit to the Committees on Appropriations of the Senate and the House of Representatives, and make available on a publicly accessible website, a report describing agreements pursuant to section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) which shall include —

(1) detailed information relating to the community outreach activities of each participating jurisdiction pursuant to such agreement, including the membership and activities of any community-based steering committee established by such jurisdiction;

(2) the number of individuals placed into removal proceedings pursuant to each such agreement;

(3) data on the performance of the officers or employees of a State or political subdivision thereof under each such agreement, including the nationality and level of criminality of the individuals described in paragraph (2); and

(4) information relating to any future plans to increase the number of such agreements or expand the scope of such agreements through the introduction of new operations pursuant to such section.

The Joint Explanatory Statement states:

Section 217. The agreement includes a new provision that requires ICE to report on information related to its 287(g) program.

House Report 116-180 states:

287(g) Program.—A provision in the bill requires ICE to provide a report to the 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. ICE, OIG, and CRCL are also directed to provide rigorous oversight of the 287(g) program, and ICE is directed to notify the Committee 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. The Committee also reminds ICE that communities are not legally required to enter into such agreements and that

immigration enforcement should not be used either to induce communities to enter or deter them from discontinuing 287(g) agreements.

II. Background

Program Overview

1. Mission

The 287(g) Program derives its authority under section 287(g) of the Immigration and Nationality Act. The 287(g) Program facilitates the processing of noncitizens who are booked into a law enforcement agency's (LEA) custody after being arrested for violations of a state or local criminal law. Under a joint memorandum of agreement (MOA) with a state and/or local LEA, U.S. Immigration and Customs Enforcement (ICE) cross-designates nonfederal law enforcement officers of the LEA as Designated Immigration Officers (DIO) to perform specific immigration enforcement roles under the supervision of an ICE officer.

2. History

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 added section 287(g), which authorizes the Secretary of Homeland Security¹ to “enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the [Secretary] to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of [noncitizens] in the United States (including the transportation of such [noncitizens] across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law.”

¹ This granted authority to the Attorney General; these authorities later were codified in 8 U.S.C. § 1103, “Powers and duties of the Secretary, the Under Secretary, and the Attorney General.”

III. Operations

A. Operations and Program Execution

- ICE exercises its 287(g) Program authority by entering formal MOAs with LEAs.
- The 287(g) Program currently operates two models—the Jail Enforcement Model (JEM) and the Warrant Service Officer (WSO) Program.
- Under JEM, DIOs are authorized to question noncitizens about their immigration status and removability while in custody, to serve warrants for immigration violations, and to issue immigration detainers at state and local detention facilities. DIOs also prepare charging documents, used in immigration courts for removal proceedings, for ICE officers’ review and signature.
- The WSO Program provides an opportunity for jurisdictions that seek to cooperate with ICE, but under a narrower cooperative agreement than JEM and allowing for greater operational flexibility.
- Under the WSO Program, WSOs are delegated limited authority to serve and execute administrative warrants to designated noncitizens in their agency’s jail or correctional facility at the direction of ICE.
- At the conclusion of FY 2020, JEM had a total of 77 signed MOAs, of which 71 were operational in 21 states. Additionally, the WSO Program had a total of 73 signed MOAs, of which 41 were operational in 11 different states.

B. Steering Committee Meetings

- 287(g) steering committee meetings were established to assess the immigration enforcement activities conducted by participating LEA personnel and to ensure compliance with the terms of the MOA.
- Steering committee meetings provide ICE, ICE’s partners, and their stakeholders an opportunity to provide feedback on the 287(g) agreement.
- Steering committee meetings foster participation from community stakeholders and increase ICE’s ability to gain an independent, community-level perspective on 287(g) operations.
- A notice is released by the LEA at least 30 days before the meeting date. This notice informs the local community of the location, date, and time of the meeting.
- In FY 2020, 28 steering committee meetings were conducted. Participants of these meetings included the leadership of the local LEAs, representatives from ICE Enforcement and Removal Operations (ERO), representatives from the ICE Office of Public Affairs, members of the community, and nongovernmental organizations. Table 1 shows the LEAs that held steering committee meetings.

Table 1. FY 2020 Steering Committee Meetings

State	MOA Name	Date of Meeting
AR	Benton County Sheriff's Office	12/11/2019
AR	Washington County Sheriff's Office	12/12/2019
FL	Hernando County Sheriff's Office	12/7/2019

State	MOA Name	Date of Meeting
GA	Cobb County Sheriff's Office	11/12/2019
GA	Georgia Department of Corrections	3/10/2020
GA	Gwinnett County Sheriff's Office	12/16/2019
GA	Hall County Sheriff's Office	12/16/2019
GA	Whitfield County Sheriff's Office	11/13/2019
LA	East Baton Rouge Sheriff's Office	12/3/2019
MD	Harford County Sheriff's Office	6/11/2020
NC	Gaston County Sheriff's Office	11/7/2019
NC	Henderson County Sheriff's Office	12/10/2019
NE	Dakota County Sheriff's Office	12/10/2019
NV	Las Vegas Metropolitan Police Dept.	10/8/2019
NV	Lyon County Sheriff's Office	12/16/2019
NV	Nye County Sheriff's Office	10/9/2019
OH	Butler County Sheriff's Office	11/5/2019
OK	Canadian County Sheriff's Office	11/15/2019
OK	Tulsa County Sheriff's Office	12/10/2019
SC	Charleston County Sheriff's Office	12/3/2019
SC	Horry County Sheriff's Office	12/4/2019
SC	Lexington County Sheriff's Department	12/5/2019
TX	Nueces County Sheriff's Office	11/21/2019
TX	Smith County Sheriff's Office	12/17/2019
TX	Wharton County Sheriff's Office	10/22/2019
VA	Culpeper County Sheriff's Office	11/7/2019
VA	Prince William-Manassas Regional Adult Detention Center	10/8/2019
WI	Waukesha County Sheriff's Office	10/3/2019

C. Program Performance Data

In FY 2020, the 287(g) Program had 16,903 encounters with individuals from 164 countries. Of those encountered, 3,830 were convicted criminals and 10,271 had pending criminal charges. The table below shows the breakdown of 287(g) encounters by criminality for FY 2020:

Criminality	FY 2020
Convicted Criminal	3,830
Pending Criminal Charges	10,271
Other Immigration Violator ²	2,802
Total	16,903

² "Other Immigration Violator" category encounters are noncitizens whose pending criminal charges at encounter are dismissed later and no longer are listed as "Pending Criminal Charges" in the ICE system of record.

The following table shows the number of relevant charges and convictions for the individuals encountered in FY 2020:

FY 2020 Relevant Charges and Convictions for 287(g) Encounters³

Charge ⁴	FY 2020		
	Relevant Charge	Relevant Conviction	Total
Abortion	16	8	24
Arson	3,523	920	4,443
Assault	4	0	4
Bribery	341	219	560
Burglary	0	1	1
Commercialized Sexual Offenses	80	38	118
Conservation	41	16	57
Damage Property	341	164	505
Dangerous Drugs	2,405	1,261	3,666
Election Laws	1	0	1
Embezzlement	19	3	22
Extortion	38	5	43
Family Offenses	509	66	575
Flight/Escape	119	54	173
Forgery	188	89	277
Fraudulent Activities	595	226	821
Gambling	84	1	85
General Crimes	1,647	798	2,445
Health/Safety	43	5	48
Homicide	63	37	100
Immigration	128	291	419
Invasion of Privacy	570	242	812
Juvenile Offenders	19	4	23
Kidnapping	133	24	157
Larceny	965	575	1,540
Liquor	234	83	317
Obscenity	22	21	43
Obstructing Judiciary, Congress, Legislature, etc.	2,255	692	2,947
Obstructing the Police	972	377	1,349
Public Peace	611	289	900
Robbery	140	64	204

³ Encounters Criminal History includes all criminal convictions or pending criminal charges for noncitizens encountered by 287(g) at the time of the encounter. Please note that an individual may have multiple charges or convictions.

⁴ ICE tracks and reports on criminality using the Federal Bureau of Investigation's standard National Crime Information Center codes.

Charge ⁴	FY 2020		
	Relevant Charge	Relevant Conviction	Total
Sex Offenses (Not Involving Assault or Commercialized Sex)	429	130	559
Sexual Assault	299	104	403
Smuggling	28	4	32
Stolen Property	139	61	200
Stolen Vehicle	161	79	240
Tax Revenue	7	0	7
Threat	75	25	100
Traffic Offenses	8,040	2,967	11,007
Traffic Offenses - DUI	3,842	1,715	5,557
Weapon Offenses	369	190	559
Total	29,495	11,848	41,343

In FY 2020, LEAs in the 287(g) Program had encounters that initiated 4,318 removals effected in that fiscal year. ICE notes that encounters for these removals may have occurred in previous fiscal years. These removals pertained to individuals from 86 countries. The “criminality” of the individuals removed is provided in the following chart:

FY 2020 287(g) Encounters That Initiated Removals by Criminality

Criminality	FY 2020
Convicted Criminal	3,448
Pending Criminal Charges	717
Other Immigration Violator ⁵	153
Total	4,318

The following table shows the 20 countries of citizenship with the highest numbers of individuals encountered in FY 2020.

FY 2020 287(g) ERO Encounters for Top 20 Countries of Citizenship

Country of Citizenship	Total
Mexico	5,653
Guatemala	1,612
Honduras	1,173
El Salvador	1,039
Cuba	460
Dominican Republic	257
Marshall Islands	227

⁴ The “Other Immigration Violator” category encounters are noncitizens whose pending criminal charges at encounter are dismissed later and no longer are listed as “Pending Criminal Charges” in the ICE system of record.

Jamaica	212
Haiti	184
Colombia	170
Cape Verde	153
Nigeria	133
Brazil	131
Venezuela	121
India	110
Vietnam	102
Nicaragua	95
China, People's Republic of	92
South Korea	90
Liberia	89
Total	12,103

The following table shows removals of individuals encountered through the 287(g) Program, by country of citizenship in FY 2020:

FY 2020 287(g) ICE Removals by Country of Citizenship

Country of Citizenship	Total
Mexico	2,770
Guatemala	545
Honduras	383
El Salvador	294
Dominican Republic	43
Brazil	32
Nicaragua	20
Colombia	18
Peru	13
Jamaica	12
Ecuador	11
Ghana	8
Portugal	7
Marshall Islands	7
Canada	7
United Kingdom	7
Spain	6
Chile	6
Germany	6
Nigeria	6
South Korea	6
Total	4,207

The following table shows the number of administrative warrants served by the 287(g) WSO Program. This data currently is tracked and submitted manually by participating areas of responsibility (AOR) until the Law Enforcement Systems and Analysis unit implements a new script to track data electronically:

FY 2020 287(g) WSO Number of Warrants Served (Manual Data Capture)

AOR	FY 2020
Miami	504
Atlanta	1
Salt Lake City	4
Total	509

IV. Funding and Execution

A. Current Level

The 287(g) Program has an appropriation that expires at the end of each fiscal year. Funds for the program are appropriated to ICE programs/projects/activities (PPA) managed by ERO, Office of the Principal Legal Advisor (OPLA), and Management and Administration. Because the program requires multifunctional support to operate effectively, funding is distributed to several program offices supporting this work. As such, funding priorities have equitable consideration to ensure operational effectiveness at every level. The following table displays funding distribution and program purposes:

ICE 287(g) Program Resources			
PPA/PPA Level II Office	FY 2020 Funding	FY 2020 Full- Time Positions	Activities
ICE ERO/Criminal Alien Program/287(g) Program Management Office (PMO)	\$13,859,235	55	Oversees the program, including issuing charging documents, providing guidance to resolve issues, and ensuring compliance with program policies and their respective MOAs. Works with each ICE component to manage and execute program resources, to train state and local personnel, and to review funding of component activity. Provides oversight of the 287(g) JEM program.
ICE ERO/Custody Operations (COPS)	\$4,075,348	0	Supports detention contract costs in locations with existing MOAs.
Management and Support/Office of the Chief Information Officer (OCIO)	\$4,161,210	4	Responsible for the engineering, purchase, installation, sustainment, and management services of all information technology equipment deployed inside the state and local facilities.
Management and Support/Office of Professional Responsibility (OPR)	\$1,768,535	14	Responsible for assessing the effectiveness of ICE ERO field offices that supervise 287(g) programs, as well as ICE and LEA partners' compliance with program policies and 287(g) MOA requirements. Provides ICE leadership with an independent evaluation of the 287(g) Program. Serves as a member of the 287(g) Program Advisory Board.

			<p>Advises on the negotiations of proposed MOAs between ICE and partner LEAs and on operational matters affecting the program.</p> <p>Serves as a member of the 287(g) Program Advisory Board.</p> <p>Advises on litigation matters, including coordination with the Department of Justice, program testimony, talking points, and other correspondence.</p> <p>Provides legal training to state and local enforcement personnel.</p>
OPLA	\$456,672	2	
Total	\$24,321,000	75	

All funds are used to support operation and maintenance costs. There are no system requirements, capabilities, or services supporting this program. In FY 2014, the funding level to the program decreased with no additional funding increases received to date. As such, the program reassessed the funding authorization level of each component to redirect funding as a means of addressing funding shortages that occurred because of authorized pay increases that did not receive an increase in appropriation.

B. History of Funding

The program funding and participation by partner agencies substantially decreased in FY 2014 and continued to operate at a reduced level during much of the decade. However, from January 2017 to the end of FY 2020, partner participation increased at a rapid and consistent rate. The increased interest from law enforcement created a need for a more appropriate level of resources. To address the shortage of personnel, the 287(g) Program supports oversight duties by allowing temporary duty travel to oversee respective partners located at unmanned sites.

History of Funding

PPAs	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Homeland Security Investigations (HSI)	5,000,000	7,571,000	7,571,000	9,592,000	11,533,000	11,533,000	11,533,000	8,048,215
287(g) PMO	-	6,829,000	7,618,000	9,299,000	19,817,000	16,782,014	16,875,014	8,723,242
Office of State and Local and Tribal Coordination (OSLTC)	-	-	-	-	-	3,034,986	3,034,986	1,654,835
OCIO	-	-	7,500,000	11,150,000	11,120,000	11,120,000	11,170,000	7,756,260
ERO/COPS	-	-	16,995,000	18,199,000	18,199,000	18,199,000	18,199,000	33,507,237
OPR	-	-	-	5,000,000	6,046,000	6,046,000	5,842,000	5,089,075
OPLA	-	-	-	434,000	546,000	546,000	638,000	287,470

Office of Acquisitions (OAQ)	-	-	-	456,000	713,000	713,000	768,000	624,275
Office of the Chief Financial Officer (OCFO)	-	-	-	-	73,000	73,000	261,000	-
TOTAL	5,000,000	14,400,000	39,684,000	54,130,000	68,047,000	68,047,000	68,321,000	65,690,609

PPAs	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
HSI	-	-	-	-	-	-	-
287(g) PMO	13,935,128	13,935,128	9,956,129	13,935,128	13,895,907	13,895,907	13,859,235
OSLTC	900,000	900,000	810,318	-	-	-	-
OCIO	3,994,210	3,994,210	3,994,210	3,994,210	3,994,210	3,994,210	4,161,210
ERO/COPS	3,207,348	3,207,348	7,207,348	4,075,348	4,075,348	4,075,348	4,075,348
OPR	1,983,535	1,983,535	1,983,535	1,935,535	1,935,535	1,929,535	1,768,535
OPLA	300,779	300,779	369,460	380,779	420,000	426,000	456,672
OAQ	-	-	-	-	-	-	-
OCFO	-	-	-	-	-	-	-
TOTAL	24,321,000	24,321,000	24,321,000	24,321,000	24,321,000	24,321,000	24,321,000

V. Conclusion and Program Plan

ICE recognizes the importance of its relationships with state and local law enforcement partners, and continues to share information and to coordinate operations with those partners in a way that best serves local needs, ICE's critical missions, and DHS's public safety, national security, and border security priorities. While the 287(g) Program has yielded successes, ICE recognizes that the program is not regarded universally as the most effective by all stakeholders, nor that it is an appropriate model for every jurisdiction. Accordingly, ICE will maintain its authority to utilize 287(g) agreements and to exercise strict oversight where such agreements operate, and will evaluate the overall effectiveness of the program continually. ICE looks forward to working with the Committees on Appropriations to secure the additional requisite resources necessary to support public safety through ICE enforcement programs, such as those inherent to the 287(g) Program.

Appendix: Abbreviations

Abbreviation	Definition
AOR	Area of Responsibility
COPS	Custody Operations
CRCL	Office of Civil Rights and Civil Liberties
DHS	Department of Homeland Security
DIO	Designated Immigration Officer
EO	Executive Order
ERO	Enforcement and Removal Operations
FY	Fiscal Year
HSI	Homeland Security Investigations
ICE	U.S. Immigration and Customs Enforcement
JEM	Jail Enforcement Model
LEA	Law Enforcement Agency
MOA	Memorandum of Agreement
OAQ	Office of Acquisitions
OCFO	Office of the Chief Financial Officer
OCIO	Office of the Chief Information Officer
OIG	Office of Inspector General
OPLA	Office of the Principal Legal Advisor
OPR	Office of Professional Responsibility
OSLTC	Office of State and Local and Tribal Coordination
PMO	Program Management Office
PPA	Program/Project/Activity
WSO	Warrant Service Officer