



287(g) End-of-Year Report

June 14, 2022

Fiscal Year 2021 Report to Congress



**Homeland
Security**

U.S. Immigration and Customs Enforcement

Message from the Acting Director

June 14, 2022

I am pleased to present the following report, “287(g) End-of-Year Report,” for Fiscal Year (FY) 2021, which was prepared by U.S. Immigration and Customs Enforcement (ICE).



This report was compiled pursuant to direction in the FY 2021 Department of Homeland Security Appropriations Act (P.L. 116-260) and its accompanying Joint Explanatory Statement and House Report 116-458.

Pursuant to congressional guidelines, this report is 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', written over a horizontal line.

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 2021, 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13768, *Enhancing Public Safety in the Interior of the United States*, issued under the prior administration and now rescinded.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 help ICE focus 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. 116-260, its Joint Explanatory Statement, and House Report 116-458 continue direction provided in P.L. 116-93, its Joint Explanatory Statement, and House Report 116-180, which 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) 2021 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-260) and its accompanying Joint Explanatory Statement and House Report 116-458, which continue direction set forth in the FY 2020 DHS Appropriations Act (P.L. 116-93).

P.L. 116-260 states:

SEC. 217. The terms and conditions of sections 216 and 217 of the Department of Homeland Security Appropriations Act, 2020 (division D of Public Law 116–93) shall apply to this Act.

The Joint Explanatory Statement states:

Section 217. By reference, the agreement continues provisions related to information sharing and on reporting under the 287(g) program.

House Report 116-458 states:

287(g) Program—The recommendation continues a provision in the bill that 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.

Section 216. The Committee continues a provision that requires ICE to provide information and statistics about the 287(g) program.

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.

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 removable noncitizens who are booked into the custody of 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 into 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 administrative 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 under a narrower cooperative agreement than JEM that allows 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 2021, JEM had a total of 66 signed MOAs, of which 61 were operational, in 19 states. Additionally, the WSO Program had a total of 76 signed MOAs, of which 57 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 287(g) DIOs and to ensure compliance with the terms of the MOA.
- Steering committee meetings provide to ICE, to ICE's partners, and to 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 2021, two steering committee meetings were conducted. The Coronavirus Disease 2019 (COVID-19) pandemic limited the scheduling of these meetings. 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. The table below shows the LEAs that held steering committee meetings.

FY 2021 Steering Committee Meetings

State	MOA Name	Date of Meeting
MD	Frederick County Sheriff's Office	6/16/2021
MD	Cecil County Sheriff's Office	10/28/2020

C. Program Performance Data

In FY 2021, the 287(g) Program had 8,750 encounters with individuals from 146 countries. Of those encountered, 1,659 were convicted criminals and 5,299 had pending criminal charges. The table below shows the breakdown of 287(g) encounters by criminality for FY 2021:

Criminality	FY 2021
Convicted Criminal	1,659
Pending Criminal Charges	5,299
Other Immigration Violator ²	1,792
Total	8,750

The following table shows the number of relevant charges and convictions for the individuals encountered in FY 2021:

Charge ⁴	FY 2021		
	Relevant Charge	Relevant Conviction	Total
Arson	14	3	17
Assault	1,886	492	2,378
Bribery	0	1	1
Burglary	181	94	275
Civil Rights	0	1	1
Commercialized Sexual Offenses	35	10	45
Conservation	38	0	38
Damage Property	209	74	283
Dangerous Drugs	1,444	674	2,118
Embezzlement	4	0	4
Extortion	20	11	31
Family Offenses	172	34	206

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.

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 2021		
	Relevant Charge	Relevant Conviction	Total
Flight/Escape	41	22	63
Forgery	60	32	92
Fraudulent Activities	250	79	329
Gambling	4	0	4
General Crimes	761	241	1,002
Health/Safety	12	5	17
Homicide	37	20	57
Immigration	41	121	162
Invasion of Privacy	307	116	423
Juvenile Offenders	7	0	7
Kidnapping	56	14	70
Larceny	380	199	579
Liquor	104	35	139
Obscenity	44	8	52
Obstructing Judiciary, Congress, Legislature, etc.	1,127	264	1,391
Obstructing the Police	493	143	636
Public Peace	321	135	456
Robbery	72	48	120
Sex Offenses (Not Involving Assault or Commercialized Sex)	240	58	298
Sexual Assault	145	59	204
Smuggling	18	5	23
Stolen Property	83	40	123
Stolen Vehicle	128	30	158
Tax Revenue	4	0	4
Threat	19	3	22
Traffic Offenses	3,387	1,126	4,513
Traffic Offenses - DUI	1,947	756	2,703
Weapon Offenses	245	131	376
Total	14,336	5,084	19,420

In FY 2021, 287(g)-partner LEAs had encounters that initiated 1,613 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 51 countries. The “criminality” of the individuals removed is provided in the following chart:

FY 2021 287(g) Encounters That Initiated Removals by Criminality

Criminality	FY 2021
Convicted Criminal	1,417
Pending Criminal Charges	166
Other Immigration Violator ⁵	30
Total	1,613

The following table shows the 20 countries of citizenship with the highest numbers of individuals encountered in FY 2021.

FY 2021 287(g) ERO Encounters for Top 20 Countries of Citizenship

Country of Citizenship	Total
Mexico	2,962
Guatemala	917
Honduras	646
El Salvador	386
Cuba	323
Dominican Republic	163
Haiti	156
Jamaica	121
Cape Verde	100
Colombia	97
Marshall Islands	94
Brazil	77
Venezuela	61
Portugal	60
Vietnam	59
Burma	53
Micronesia, Federated States of	53
Nigeria	51
India	49
Canada	46
Total	6,474

The following table shows removals of individuals encountered through the 287(g) Program, by the top 20 countries of citizenship in FY 2021:

FY 2021 287(g) ICE Removals for Top 20 Countries of Citizenship

Country of Citizenship	Total
Mexico	968
Guatemala	264
Honduras	125

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.

Country of Citizenship	Total
El Salvador	95
Dominican Republic	29
Jamaica	13
Colombia	12
Brazil	9
Haiti	8
Ecuador	7
Nicaragua	7
Romania	7
Cape Verde	5
Nigeria	5
Iraq	4
Bosnia-Herzegovina	3
Canada	3
Ethiopia	3
Jordan	3
Peru	3
Total	1,573

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 2021 287(g) WSO Number of Warrants Served (Manual Data Capture)

AOR	FY 2021
Miami	179
Atlanta	4
Salt Lake City	17
Denver	6
Chicago	11
Phoenix	2
Total	219

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 2021 Funding	FY 2021 Full-Time Positions	Activities
ICE ERO/Criminal Alien Program/287(g) Program Management Office (PMO)	\$13,865,235	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)	\$3,994,210	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)	\$1,929,535	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	FY 2021
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	13,865,235
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	3,994,210
ERO/ COPS	3,207,348	3,207,348	7,207,348	4,075,348	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	1,929,535
OPLA	300,779	300,779	369,460	380,779	420,000	426,000	456,672	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	24,321,000

V. Conclusion and Program Plan

ICE recognizes the importance of 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. ICE will continue to exercise strict oversight where such agreements operate and will continue to evaluate the overall effectiveness of the program. ICE looks forward to working with the Committees on Appropriations to ensure the level of resources necessary to support public safety through enforcement programs such as 287(g).

Appendix: Abbreviations

Abbreviation	Definition
AOR	Area of Responsibility
COPS	Custody Operations
DHS	Department of Homeland Security
DIO	Designated Immigration Officer
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
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