



287(g) End-of-Year Report

June 24, 2020

Fiscal Year 2019 Report to Congress



**Homeland
Security**

U.S. Immigration and Customs Enforcement

Message from the Deputy Director and Senior Official Performing the Duties of the Director

I am pleased to present the following “287(g) End-of-Year Report” for Fiscal Year (FY) 2019, which has been prepared by U.S. Immigration and Customs Enforcement (ICE).



This report was compiled pursuant to language in the Joint Explanatory Statement that accompanies the FY 2019 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-6), and in the Joint Explanatory Statement and House Report 115-239 that accompany the FY 2018 DHS Appropriations Act (P.L. 115-141).

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 Shelley Moore Capito
Chairman, Senate Appropriations Subcommittee on Homeland Security

The Honorable Jon Tester
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

Inquiries related to this report may be directed to me at (202) 732-3000.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Albence', written in a cursive style.

Matthew T. Albence
Deputy Director and
Senior Official Performing the Duties of the Director
U.S. Immigration and Customs Enforcement

Executive Summary

The following report provides an operational summary of the ICE 287(g) Program for FY 2019 and its plans for FY 2020. ICE firmly supports the 287(g) Program, which is a successful force multiplier in the identification and processing of aliens subject to removal from the United States. Participating state and local agencies allow ICE Enforcement and Removal Operations to refocus its jail screening assets in those jurisdictions to other at-large threats within the community. The report demonstrates the program's success through performance data regarding FY 2019 encounters and FY 2019 removals related to previous 287(g)-encountered aliens.

The report also provides comprehensive data regarding the occurrence of steering committee meetings as described in the memorandum of agreement. Lastly, the report discusses the impact of budgetary constraints on future program expansion, as directed by the 2017 Executive Order (EO) 13768, *Enhancing Public Safety in the Interior of the United States*. Following issuance of the EO, ICE more than doubled the number of participating jurisdictions, which was 95 at the end of FY 2019. At current funding levels, ICE will find it difficult to maintain proper oversight of its current partners.

Report Scope

In FY 2018, the Joint Explanatory Statement and House Report 115-239 directed ICE to provide a report to the Committee on the 287(g) Program, due not later than 60 days after the end of each fiscal year, including:

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

The Joint Explanatory Statement that accompanies the FY 2019 DHS Appropriations Act (P.L. 116-6) continues this directive.



287(g) End-of-Year Report

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I. Legislative Language

This report was compiled in response to legislative language set forth in the Joint Explanatory Statement accompanying the Fiscal Year (FY) 2019 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-6), and in the Joint Explanatory Statement and House Report 115-239 accompanying the FY 2018 DHS Appropriations Act (P.L. 115-141).

The FY 2019 Joint Explanatory Statement states:

ICE shall continue to provide an annual 287(g) report, as detailed in House Report 115–239, which should also describe any plans for future expansion of or changes to the use of its 287(g) authority.

The FY 2018 Joint Explanatory Statement states:

ICE is directed to provide an annual report on the 287(g) program, as specified in House Report 115–239.

Additionally, House Report 115-239, referenced in both Joint Explanatory Statements above, states:

ICE is directed to provide an annual report to the Committee on the 287(g) program, due not later than 60 days after the end of each fiscal year, including details on steering committee membership and activities for participating jurisdictions; performance data, including nationality, level of criminality, and enforcement priority level of individuals placed into removal proceedings by 287(g)-designated officers; and any plans for future expansion of or changes to the program.

II. Background

Program Overview

1. Mission

The 287(g) Program serves as a force multiplier for U.S. Immigration and Customs Enforcement (ICE) at the state and local levels and is one of ICE's top partnership initiatives. Participation by law enforcement agencies (LEA) is voluntary and requires execution of a memorandum of agreement (MOA) between ICE and the partnering LEAs. The MOA sets forth the scope and duration of delegated authority, the training requirements, and the terms of ICE supervision. It also requires the partnering LEA to follow DHS and ICE policies when its designated immigration officers (DIO) perform delegated immigration law enforcement functions. Since implementation of the President's Executive Order (EO) 13768, *Enhancing Public Safety in the Interior of the United States*, ICE has expanded its national footprint significantly through its use of 287(g) partnerships. At the close of FY 2019, ICE had 95 signed MOAs with partnering LEAs.

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 aliens in the United States (including the transportation of such aliens 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. Code § 1103, "Powers and duties of the Secretary, the Under Secretary, and the Attorney General."

III. Operations

A. Operations and Program Execution

- DHS and ICE provide oversight and funding to ensure that the national 287(g) Program enhances the safety and security of local communities through compliance with the formal MOA.
- The 287(g) Program currently utilizes two programs, the Jail Enforcement Model (JEM) and the Warrant Service Officer (WSO) Programs. At the close of FY 2019, ICE had 79 signed JEM MOAs and 353 DIOs, and 16 signed WSO MOAs and 40 DIOs.
- The JEM Program's goal is to enhance the safety and security of the public by focusing resources on identifying and processing removable aliens who have been arrested and booked into the LEA's correctional facilities. ICE Enforcement and Removal Operations (ERO) detention and deportation officers provide oversight to the DIOs.
- Under JEM, DIOs are authorized to question aliens about their immigration status and removability, to serve warrants for immigration violations, and to issue immigration detainers at state and local detention facilities. DIOs also prepare, for ICE officers' review and signature, charging documents that are used in immigration courts for removal proceedings.
- By the end of FY 2019, the JEM Program had trained 98 new state and local officers in the Immigration Authority Delegation Program basic training course to become DIOs, and 155 DIOs had attended refresher training.
- The WSO provides an opportunity for jurisdictions that seek to cooperate with ICE under a narrower cooperative agreement than the JEM. The WSO was developed in response to requests for operational flexibilities received from members of the National Sheriffs' Association and the Major County Sheriffs of America.
- Under the WSO Program, DIOs are delegated limited authority to serve and execute administrative warrants on designated aliens in their agency's jail or correctional facility, upon direction from an ICE officer.
- In FY 2019, ICE received a total of 37 additional LEA requests for participation in the program, generating approximately 316 new DIOs.

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.
- In FY 2019, 51 steering committee meetings were conducted.² Participants of these meetings included the leadership of the local LEAs, representatives from ICE ERO, representatives from the ICE Office of Public Affairs, and members of the community

² Steering committee meetings may not have occurred for all sites because some locations may not have had an operational program, with requisite equipment or trained personnel, deployed. Additionally, there may have been a steering committee meeting conducted during the same calendar year but falling outside of the relevant fiscal year.

and nongovernmental organizations. Table 1, below, shows the LEAs that held steering committee meetings:

Table 1. FY 2019 Steering Committee Meetings

State	MOA Name	Date of Meeting
AL	Etowah County Sheriff's Office	4/16/2019
AR	Benton County Sheriff's Office	12/11/2018
AR	Washington County Sheriff's Office	12/12/2018
AR	Craighead County Sheriff's Office	9/30/2019
AZ	Arizona Department of Corrections	3/15/2019
AZ	Mesa Police Department	9/10/2019
AZ	Yavapai County Sheriff's Office	9/18/2019
AZ	Pinal County Sheriff's Office	9/30/2019
FL	Jacksonville Sheriff's Office	8/26/2019
FL	Pasco County Sheriff's Office	9/24/2019
FL	Collier County Sheriff's Office	7/19/2019
FL	Clay County Sheriff's Office	8/26/2019
GA	Gwinnett County Sheriff's Office	11/8/2018
GA	Cobb County Sheriff's Office	11/3/2018
GA	Whitfield County Sheriff's Office	11/14/2018
LA	East Baton Rouge Sheriff's Office	12/14/2018
MA	Bristol County Sheriff's Office	4/10/2019
MA	Massachusetts Department of Correction	7/17/2019
MA	Barnstable County Sheriff's Office	2/13/2019
MA	Plymouth County Sheriff's Office	3/13/2019
MD	Harford County Sheriff's Office	6/11/2019
NC	Cabarrus County Sheriff's Office	4/11/2019
NC	Gaston County Sheriff's Office	11/7/2018
NE	Dakota County Sheriff's Office	12/4/2018
NY	Rensselaer County Sheriff's Office	6/26/2019
OH	Butler County Sheriff's Office	11/27/2018
OK	Okmulgee County Criminal Justice Authority	8/12/2019
OK	Tulsa County Sheriff's Office	12/3/2018
SC	York County Sheriff's Office	4/12/2019
SC	Charleston County Sheriff's Office	12/6/2018
SC	Horry County Sheriff's Office	12/5/2018
SC	Lexington County Sheriff's Department	11/29/2018
TX	Jackson County Sheriff's Office	10/18/2018
TX	Victoria County Sheriff's Office	6/5/2019
TX	Lavaca County Sheriff's Office	6/6/2019
TX	Goliad County Sheriff's Office	6/6/2019
TX	Matagorda County Sheriff's Office	6/18/2019

State	MOA Name	Date of Meeting
TX	DeWitt County Sheriff's Office	8/7/2019
TX	Calhoun County Sheriff's Office	8/7/2019
TX	Refugio County Sheriff's Office	8/8/2019
TX	Aransas County Sheriff's Office	8/8/2019
TX	Lubbock County Sheriff's Office	9/24/2019
TX	Potter County Sheriff's Office	6/12/2019
TX	Rockwall County Sheriff's Office	9/4/2019
TX	Smith County Sheriff's Office	12/18/2018
TX	Tarrant County Sheriff's Office	8/20/2019
TX	Terrell County Sheriff's Office	7/9/2019
TX	Williamson County Sheriff's Office	9/25/2019
TX	Kendall County Sheriff's Office	9/13/2019
VA	Culpeper County Sheriff's Office	10/27/2018
VA	Prince William-Manassas Regional Adult Detention Center	10/11/2018

C. Program Performance Data

In FY 2019, the 287(g) Program had 24,865 encounters with individuals from 177 countries. Of those encountered, 6,677 were convicted criminals. Table 2, below, shows the 20 highest numbers of individuals encountered by countries of citizenship in FY 2019:

Table 2. FY 2019 287(g) ERO Encounters for Top 20 Countries of Citizenship

Country of Citizenship	Encounters
MEXICO	9,270
GUATEMALA	1,926
EL SALVADOR	1,600
HONDURAS	1,491
CUBA	648
DOMINICAN REPUBLIC	402
JAMAICA	320
HAITI	268
COLOMBIA	242
MARSHALL ISLANDS	196
BRAZIL	195
CHINA, PEOPLES REPUBLIC OF	184
INDIA	184
VIETNAM	168
CAPE VERDE	166
NIGERIA	160
CANADA	131
PORTUGAL	129

Country of Citizenship	Encounters
VENEZUELA	124
SOUTH KOREA	118

The LEAs in the 287(g) Program had encounters that initiated 6,536 removals effected in FY 2019. It should be noted that the encounters for these removals may have occurred in previous fiscal years. These removals pertained to individuals from 95 countries. The “criminality” of the individuals removed is as follows:

- 5,024 convicted criminals
- 1,360 pending criminal charges
- 152 other immigration violators

Types of criminality include, but are not limited to: 775 assaults, 704 dangerous drugs, 203 larcenies, 174 fraud, 173 sex crimes, 141 burglaries, 110 weapons offenses, 38 robberies, and 21 homicides. Table 3, below, shows the top removals by country of citizenship:

Table 3. FY 2019 287(g) ICE Removals for Top 20 Countries of Citizenship

Country of Citizenship	Removals
MEXICO	4,305
GUATEMALA	767
HONDURAS	587
EL SALVADOR	392
BRAZIL	49
COLOMBIA	36
DOMINICAN REPUBLIC	33
JAMAICA	19
NICARAGUA	19
PERU	19
SOUTH KOREA	17
UNITED KINGDOM	12
MARSHALL ISLANDS	11
CANADA	10
GAMBIA	10
GHANA	10
BOLIVIA	9
CHILE	9
INDIA	9
NIGERIA	9
PHILIPPINES	9
PORTUGAL	9

Country of Citizenship	Removals
ROMANIA	9
VENEZUELA	9

D. Law Enforcement Actions

In accordance with EO 13768, all individuals encountered by the 287(g) Program fall in the following categories:

- (a) Have been convicted of any criminal offense;
- (b) Have been charged with any criminal offense, where such charge has not been resolved;
- (c) Have committed acts that constitute a chargeable criminal offense;
- (d) Have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency;
- (e) Have abused any program related to receipt of public benefits;
- (f) Are subject to a final order of removal, but have not complied with their legal obligation to depart the United States; or
- (g) In the judgment of an immigration officer, otherwise pose a risk to public safety or national security.

IV. Funding and Execution

A. Current Level

The 287(g) Program has an annual 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, the 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 funding distribution and program purposes are below:

ICE 287 (g) Program Resources			
PPA/PPA Level II Office	FY 2019 Funding	FY 2019 Full-time Positions	Activities
ICE ERO/Criminal Alien Program/287(g) Program Management Office	\$13,895,907	55	Oversees the program, including issuing charging documents, providing immediate guidance to resolve emerging issues, and ensuring compliance with program policies and their respective MOAs; and 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 WSO program, which authorizes state and local officers to enhance the safety and security of the public by focusing resources on identifying and processing removable aliens who have been arrested and booked into the LEA's correctional facilities.
ICE ERO/Custody Operations	\$4,075,348	0	Supports detention contract costs in locations with existing MOAs.
Management and Support/Office of the Chief Information Officer	\$3,994,210	4	Responsible for the engineering, purchase, installation, sustainment, and management services of all information technology (IT) equipment deployed inside the state and local facilities.
Management and Support/Office of Professional Responsibility	\$1,932,523	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; and Serves as a member of the 287(g) Program Advisory Board.

ICE 287 (g) Program Resources			
PPA/PPA Level II Office	FY 2019 Funding	FY 2019 Full- time Positions	Activities
OPLA	\$423,012	2	<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; and</p> <p>Provides legal training to state and local enforcement personnel.</p>
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. The funding level was decreased in FY 2014 and has received no funding increases to date even though the 2017 EO 13768 authorized the expansion of the 287(g) Program.

B. History of Funding

The program's funding level and participation by partner agencies substantially decreased beginning in FY 2012 and continued to operate at a reduced level during much of the decade. However, partner participation has increased at a rapid and consistent rate in response to the FY 2017 EO 13768 expansion directive. The expansion of the JEM MOAs and the FY 2019 deployment of the WSO Program have created a dire need for dedicated resources to provide additional oversight and support, essential requirements to ensure that the partners execute their delegated duties in compliance with federal statutes and ICE policies. To address the shortage of personnel, the 287(g) Program supports oversight duties by allowing temporary duty travel to oversee respective partners located at sites without permanent ICE personnel assigned. To this end, ICE consistently has requested an increase in funds through the federal budget process, but those requests have been unsuccessful to date.

History of Funding

PPAs	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	FY 2012 PB	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019
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	13,935,128	13,935,128	9,956,129	13,935,128	13,895,907	13,895,907
OSLTC	-	-	-	-	-	3,034,986	3,034,986	1,654,835	900,000	900,000	810,318	-	-	-
OCIO	-	-	7,500,000	11,150,000	11,120,000	11,120,000	11,170,000	7,756,260	3,994,210	3,994,210	3,994,210	3,994,210	3,994,210	3,994,210
ERO/COPS	-	-	16,995,000	18,199,000	18,199,000	18,199,000	18,199,000	33,507,237	3,207,348	3,207,348	7,207,348	4,075,348	4,075,348	4,075,348
OPR	-	-	-	5,000,000	6,046,000	6,046,000	5,842,000	5,089,075	1,983,535	1,983,535	1,983,535	1,935,535	1,935,535	1,932,523
OPLA	-	-	-	434,000	546,000	546,000	638,000	287,470	300,779	300,779	369,460	380,779	420,000	423,012
OAQ	-	-	-	456,000	713,000	713,000	768,000	624,275	-	-	-	-	-	-
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	24,321,000	24,321,000	24,321,000	24,321,000	24,321,000	24,321,000

C. Program Needs

ICE continually identifies shortages and has requested additional resources, including \$77.7 million in the FY 2021 budget submission. With this funding increase, ICE can continue its expansion efforts at a more sustainable level. Without the funding increase, the program expansion will be challenged. The funding increase will continue supporting state and local training costs, oversight, detention costs, IT equipment, legal reviews, inspections, and compliance reviews. In addition, the program would add other support staff, such as instructors, enforcement assistants, and contract professionals. The table below showed the staffing plan if the funding increase is received:

PPA/PPA Level II - Office	FY2021 President's Budget		FY2020 Enacted Levels	
	Funding	FTP	Funding	FTP
ERO/Criminal Alien Program/287(g) Program Management Office	\$ 27,773,349	108	\$ 13,859,235	55
ERO/Custody Operations	\$ 36,826,348	0	\$ 4,075,348	0
Management and Support/OCIO	\$ 8,213,096	6	\$ 4,161,210	4
Management and Support/OPR	\$ 3,966,154	22	\$ 1,768,535	14
OPLA	\$ 996,095	4	\$ 456,672	2
TOTAL	\$ 77,775,041	140	\$ 24,321,000	75

*Differences of \$1 are due to rounding.

Methodologies to determine cost increases in each functional area were based on the potential number of anticipated MOAs, number of new DIOs, IT requirement at each site, number of training courses, inspections to be performed, and detention costs using historical data of each potential MOA site.

V. Program Future Expansion Plan

The program continues to solicit state and local agencies to identify potential partners and will continue doing so in response to EO 13768. Current funding supports 95 partners; however, without additional resources, continued expansion of the program may be hindered. The program remains ready to initiate new 287(g) agreements in anticipation of receiving a funding increase.

VI. Conclusion

Since its inception, the 287(g) Program has experienced varying levels of partnership interest. ICE continues to use 287(g) partnerships to assist state and local agencies in ensuring the safety of their communities while working to expand the program consistent with EO 13768, *Enhancing Public Safety in the Interior of the United States*. ICE looks forward to working with Congress to secure the additional resources necessary to sustain and expand the 287(g) Program.

Appendix: Abbreviations

Abbreviation	Definition
DHS	Department of Homeland Security
DIO	Designated Immigration Officer
EO	Executive Order
ERO	Enforcement and Removal Operations
FY	Fiscal Year
ICE	U.S. Immigration and Customs Enforcement
IT	Information Technology
JEM	Jail Enforcement Model
LEA	Law Enforcement Agency
MOA	Memorandum of Agreement
OPLA	Office of the Principal Legal Advisor
PPA	Program/Project/Activity
WSO	Warrant Service Officer