

Local Law Enforcement and Immigration

The 287(g) Program in Southern California

Coalition for Humane Immigrant Rights of Los Angeles

Introduction: One of U.S. Immigration and Customs Enforcement's (ICE) programs to engage local law enforcement is the 287(g) program, which allows local law enforcement to perform many of the tasks of immigration agents. The 287(g) program was authorized in the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) and allows ICE to train and deputize local police, sheriffs, and jail officials to enforce federal immigration law.

Southern California 287(g) Programs: Los Angeles County was the first California entity to sign a 287(g) Memorandum of Understanding (MOU) with ICE, on February 1, 2005. As of 2008, Los Angeles, Orange, Riverside and San Bernardino Counties have 287(g) programs. In addition, the city of Costa Mesa has a 287(g) program. The agreements between each law enforcement agency and ICE vary slightly in terms of powers granted. The Los Angeles County MOU, as an example, addresses the enforcement of immigration in jail settings. Los Angeles sheriffs that have been trained under the agreement are able to question any detainee about their immigration status, consider evidence to support deportation, prepare detainees, administer immigration oaths, take sworn statements from detainees and prepare notice to appear applications. They can also notify ICE about the presence of any undocumented immigrant, legal permanent resident, or asylee that is in their custody or in the criminal justice system; ICE can then deport them.

Almost all cities in Southern California have refrained from signing 287(g) agreements, and some cities have policies prohibiting excessive immigration enforcement (e.g. the Los Angeles Police Department's Special Order 40). However, people who are detained by police in areas with more favorable immigration policies such as Los Angeles are often moved to county-run jail facilities where immigrants *are* screened for immigration law violations. Thus, even when local police have strong relationships with immigrant communities, these bonds may be undermined by fears of being placed in a county facility.

According to the Los Angeles Times, from February 2005 to June 2008, the Los Angeles County Sheriffs interviewed 20,000 inmates and referred 10,840 people to Immigration and Customs Enforcement for possible deportation. In addition, the Orange County Sheriff's Department (OCSA) reports that during fiscal year 2008, ICE officers and sheriffs' department personnel in the seven-county southern California region processed a total of 35,562 immigrants for deportation—12% higher than in the previous year. While not all of this figure can be attributed to the 287(g) program,

Detention and Deportation of Citizens from California Jails:

Detainees, media and advocates have exposed the following cases of U.S. citizens who were processed by local law enforcement or prisons:

- U.S. citizen Pedro Guzman, who is developmentally disabled and perhaps not capable of effectively defending himself, was deported in May, 2007. He had been cited on a misdemeanor trespassing violation. Guzman was determined to be undocumented by the Los Angeles sheriffs and was eventually deported with nothing in Tijuana—and was forced to roam the streets eating garbage. His family searched Baja California, thinking he was dead. He ultimately was able to reunite with them eighty-nine days after he was deported.
- U.S. citizen Guillermo Olivares Romero was held in the Otay Mesa immigration detention center for two weeks. He was released in October 2009, after lawyers showed officials his birth certificate and other records. He had previously been deported twice, after serving time in state prison. Although Romero told officials he was a citizen, and had previously provided immigration officials with his birth certificate, he had signed paperwork in prison saying he was not.
- U.S. citizen Jose Ledesma was held for two months in a Lancaster immigration detention center in 2008 after serving time for possession of marijuana. He had provided copies of his Madera County birth certificate and his baptismal certificate to authorities, but was told that his birth certificate had been cancelled. Ledesma was freed in November, 2008.

OCSD suggests that roughly a third were identified by local sheriffs departments.

287(g) Enforcement Applies to All Crimes: Officials working under 287(g) programs are allowed to refer people to ICE for *any* violation of the law. The 287(g) program makes no distinction between people who have committed serious felonies and people who have committed non-violent low level misdemeanor crimes. In San Bernardino County, officers have begun to report people who were trying to serve their community service time for misdemeanor crimes to ICE. This means that they are effectively punishing people for trying to rectify the minor crimes they may have committed, and who are cooperating with the system. Because an undocumented individual might be deported for any small or petty crime, there is increased fear of law enforcement and a disincentive for immigrants to collaborate with or contact local law enforcement to report crimes.

Problems Guaranteeing Rights under 287(g) Agreements: Because immigration detainees are not guaranteed state-provided legal representation, the vast majority of detainees have no means by which to effectively defend themselves, even though some may have legitimate cases. Immigration detainees have fewer rights than prisoners in the criminal justice system because immigration is considered a civil offense. Many detainees effectively relinquish their rights by signing voluntary deportation orders, the implications of which many do not fully understand. In addition, local law enforcement officers and prison officials may be poorly trained in the complexities of immigration law. Officers that are cross-deputized under the 287(g) program only have to undergo four weeks of training. Lack of proper understanding, lack of legal representation, lack of oversight, the presence of coercion, and low standards for proof of status raise the possibility that U.S. citizens will be deported, or that immigrants who may have valid legal cases will be deported.

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