

Section 287(g) authorizes Homeland Security to enter into agreements with state and local law enforcement agencies, permitting designated officers to perform immigration law enforcement functions provided they receive appropriate training under the supervision of a sworn US Immigration and Customs Enforcement officer (ICE). According to the ICE website, "State and local patrol officers, detectives, investigators and correctional officers working in conjunction with ICE gain: necessary resources and authority to pursue investigations relating to violent crimes, human smuggling, gang/organized crime activity, sexual-related offenses, narcotics smuggling and money laundering; and support in more remote geographical locations." As local law enforcement agencies are often the first responders on the scene when there is an emergency, 287(g) was created so that if these officers encountered "foreign-born criminals and immigration violators who pose a threat to national security or public safety" in the course of their daily duties, they would have the authority, and training, to react accordingly. According to the ICE's "Protect Shield America" Initiative, "The following three levels are illustrative of the plan's risk based approach. These levels will be used to allocate appropriate resources to identifying and determining the immigration status of aliens arrested for a crime that pose the greatest risk to the public.

- Level 1 – Individuals who have been convicted of major drug offenses and violent offenses such as murder, manslaughter, rape, robbery, and kidnapping;
- Level 2 – Individuals who have been convicted of minor drug offenses and mainly property offenses such as burglary, larceny, fraud, and money laundering; and
- Level 3 – Individuals who have been convicted of other offenses."

287(g) in Davidson County

In early 2006, the Davidson County Sheriff requested permission to participate in the 287(g) program after six illegal immigrants were arrested and charged with homicide during a three-month period. Originally intended to help remove "criminal illegal immigrants," the program quickly became a way to remove any undocumented immigrant encountered by the Davidson County Sheriff's Department.

The Sheriff's Immigration Advisory Council was asked to provide input over how to best implement 287(g) into Davidson County. Comprised of immigration attorneys and advocates as well as representatives from the sheriff's office, police department, and public defender's office, the council meets quarterly. Their purpose statement is as follows:

"It is the purpose of the Sheriff's Immigration Advisory Council to share concerns and input ideas for the implementation of the 287(g) Delegation of Authority program. Another primary purpose of the Council is to carry factual information to the immigrant community and community at large. It is also expected of the Council to bring forward specific complaints concerning individual cases once the program has been implemented. Ultimately, the decisions for how the program works rests with the Sheriff's Office and the laws and policies governing the ICE agency."

In 2008, the Advisory Council revealed that in first 12 months of the 287(g) program, 3,000 arrestees were found to be here illegally and most of those were deported. About 80% of the 3,000 deported were arrested on misdemeanor offenses. An estimated 25% were arrested on charges of driving

without a license. About 20% were charged with felonies, the type of crimes that led to the program. Most arrestees had committed traffic misdemeanors and only 38% had previous arrest records, mostly misdemeanors. About 62% went to jail for the first time. To cut down on racial profiling, and the resulting mistrust of law enforcement from the community, the Sheriff's Immigration Advisory Committee urged the sheriff to set stricter guidelines for which arrestees undergo interrogation, instead of subjecting it to anyone who is foreign-born.

A report issued on May 6th, 2009, by the federal Government Accountability Office found that the ICE has little consistency as to how it's implemented in the 66 jurisdictions where 287(g) is a part of the local law enforcement. According to this report, because Immigration offices haven't made their objectives clear – mainly to get dangerous criminals off the streets – programs such as Nashville's use their resources to process minor offenders. Pursuing minor offenders wastes valuable resources and clogs federal detention centers.

Critics here in Nashville of 287g are discouraged because the program sees that all foreign-born people booked into jail are screened by sheriff's deputies to determine citizenship. Those identified as illegal are detained and sent to federal custody when their sentences are completed. Many say that the 287(g) program has resulted in racial and ethnic profiling and that the program needs further scrutiny and revision. Often, they cite cases like Juana Villegas who was nine months pregnant when pulled over in Berry Hill for "careless driving," and was arrested for driving without a license. Once screened under 287(g), Juana was designated a medium security risk. As a result, when she went into labor, she was shackled to a bed in Metro General Hospital and forced to give birth in the presence of sheriff's deputies, without her husband.

However, Sheriff Daron Hall says that Nashville's 287(g) program has been in consensus with his mission from the beginning, mainly to prevent high-profile criminals off the street and out of Nashville. According to the 287 Two Year Review, over 5,300 illegal immigrants have been processed for removal in Davidson County since 2007. The review also says that the percentage of illegal aliens committing crimes in Davidson County is down 46% and at least 70 known gang members have been identified and removed from the streets. In regards to racial profiling, the report shows that the percentage of arrests of foreign born individuals has decreased 31% and foreign born arrestees were brought to jail for, "primarily," the same crimes prior to 287(g) as they are post.

SEC. 133. ACCEPTANCE OF STATE SERVICES TO CARRY OUT IMMIGRATION ENFORCEMENT.

Section 287 (8 U.S.C. 1357) reads:

"(g)(1) Notwithstanding section 1342 of title 31, United States Code, the Attorney General **may 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 Attorney General 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 sub-division and to the extent consistent with State and local law.

For more information visit:

<http://www.tnimmigrant.org/news.php?viewStory=51>

<http://tirrc.bondwaresite.com/news.php?viewStory=133>

<http://www.ice.gov/pi/news/factsheets/070622factsheet287gprogover.htm>

<http://www.ice.gov/pi/news/newsreleases/articles/070227nashville.htm>