

From: (b)(6), (b)(7)c  
To: (b)(6), (b)(7)c  
Subject: RE: DACA cases  
Date: Friday, March 22, 2013 4:25:00 PM

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- How do officers screen aliens for DACA eligibility (I'm assuming they use the checklist) but let me know if there's something else.  
**The questions provided on the DACA checklist are used to determine eligibility. Officers also screen for prosecutorial discretion.**
  
- What is the procedure that your officers follow when they encounter someone that may be eligible for DACA.  
**Create an event number indicating eligibility under PD; Issue an A Number with the interview sheet, DACA checklist, short I213, USCIS referral sheet and send the file to USCIS Records.**  
**Depending upon what stage in removal proceedings they are in they are either instructed to contact CIS (for final order cases) or we contact OCC on their behalf (for cases that are in proceedings).**
  
- Number of DACA eligible cases you have encountered in FY13. If you don't track this information, maybe you can estimate the number of cases encountered during a week.  
**CHL CAP has encountered an estimated 5 DACA eligible cases in FY 13, 287g has had two DACA cases in FY 13, non-detained has had ten. The total DACA eligible cases in South Carolina is 17 for FY 13.**
  
- What procedure do you follow when OCC notifies you that an alien in custody may be eligible for DACA.  
**The CAP unit, the 287G unit, and the FUGOPs unit have not been notified by OCC of an alien eligible for DACA.**  
**The non-detained unit places the alien's case in the PD by IJ docket and any outstanding bond is cancel. The file is then sent to the NRC.**

(b)(6), (b)(7)c

**Assistant Field Office Director  
US DHS ICE ERO  
South Carolina ERO Operations  
3950 Faber Place Drive  
North Charleston, SC 29405  
(c) 404-449 (b)(6), (b)(7)c  
(o) 843-746 (b)(6), (b)(7)c  
(b)(6), (b)(7)c @dhs.gov**

Leadership is solving problems. The day soldiers stop bringing you their problems is the day you have stopped leading them. They have either lost confidence that you can help or concluded you do not care. Either case is a failure of leadership. ----- Colin Powell

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**From:** [redacted]  
**To:** [redacted] (b)(6), (b)(7)c  
**Cc:**  
**Subject:** RE: Detainer policy  
**Date:** Friday, December 21, 2012 6:43:29 PM  
**Attachments:** [Detainer Policy 12 21 12 \(5\).pdf](#)

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Good question (b)(6), (b)(7)c. On the FOD call today, Director Mead was asked about recent arrivals (arrived within the last 3 years or so), whose only pending charge is a no d/l. He said they can have detainers placed on them, as these individuals have been deemed to pose a significant risk to border security, as per the last bullet at the bottom of page 2 of the 12/21/2012 Morton Detainer Memo:

“ - the individual otherwise poses a significant risk to national security, border security, or public safety.”

(b)(6), (b)(7)c  
DEPUTY FIELD OFFICE DIRECTOR  
(RESPONSIBLE FOR THE STATE OF GEORGIA, EXCEPT THE STEWART DETENTION CENTER)  
ATLANTA FIELD OFFICE  
ENFORCEMENT AND REMOVAL OPERATIONS  
U. S. IMMIGRATION AND CUSTOMS ENFORCEMENT  
DEPARTMENT OF HOMELAND SECURITY  
OFFICE: (404) 893- [redacted] (b)(6), (b)(7)c

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**From:** [redacted] (b)(6), (b)(7)c  
**Sent:** Friday, December 21, 2012 4:20 PM  
**To:** [redacted] (b)(6), (b)(7)c  
[redacted] (b)(6), (b)(7)c  
**Cc:** [redacted]  
**Subject:** RE: Detainer policy

Mr. [redacted] (b)(6), (b)(7)c

I am confused by the detainer policy which contradicts the prosecutorial discretion policy I just trained all of South Carolina ERO on. The recent illegal entrants to the United States of America seems to be completely overlooked. It must have been an oversight. Can you clarify this? The new detainer policy seems to narrow the prosecutorial discretion criteria even more, although we can still issue NTAs and OREC if nothing else. Please clarify as I would like to pass out the correct guidance to my law enforcement officers. Thanks!

- Aliens who pose dangers to national security and risks to public safety
- Recent illegal entrants
- Repeat violators of immigration law
- Aliens who are fugitives from justice or obstruct immigration controls

(b)(6), (b)(7)c

**Assistant Field Office Director**  
**US DHS ICE ERO**  
**South Carolina ERO Operations**  
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Leadership is solving problems. The day soldiers stop bringing you their problems is the day you have stopped leading them. They have either lost confidence that you can help or concluded you do not care. Either case is a failure of leadership. ----- Colin Powell

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**From:** (b)(6), (b)(7)c  
**Sent:** Friday, December 21, 2012 4:04 PM  
**To:** (b)(6), (b)(7)c  
**Cc:** (b)(6), (b)(7)c  
**Subject:** FW: Detainer policy

New detainer policy. It appears we can't put detainees on no d/l cases unless they have a prior VR, or are a "significant risk to public safety." Not sure how this will work w/ 287(g)? We can still put detainees on DUI's, even if only charged, but not yet convicted. Please read and send up any questions and we will try to get them addressed.

(b)(6), (b)(7)c  
DEPUTY FIELD OFFICE DIRECTOR  
(RESPONSIBLE FOR THE STATE OF GEORGIA, EXCEPT THE STEWART DETENTION CENTER)  
ATLANTA FIELD OFFICE  
ENFORCEMENT AND REMOVAL OPERATIONS  
U. S. IMMIGRATION AND CUSTOMS ENFORCEMENT  
DEPARTMENT OF HOMELAND SECURITY  
OFFICE: (404) 893-7700 (b)(6), (b)(7)c

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**From:** (b)(6), (b)(7)c  
**Sent:** Friday, December 21, 2012 2:36 PM  
**To:** (b)(6), (b)(7)c  
(b)(6), (b)(7)c (b)(6), (b)(7)c

(b)(6), (b)(7)c

**Cc:**

(b)(6), (b)(7)c

(b)(6), (b)(7)c

**Subject:** Detainer policy

All,

Mr. Mead asked that I provide you the attached Detainer policy in advance of today's FOD call.

Regards,

(b)(6), (b)(7)c

Acting Deputy Chief of Staff  
Office of Enforcement and Removal Operations  
Immigration and Customs Enforcement  
(202) 732- Desk  
(215) 651- BlackBerry

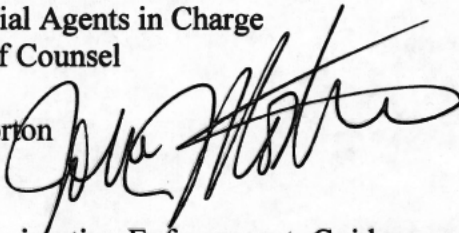
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**U.S. Immigration  
and Customs  
Enforcement**

DEC 21 2012

**MEMORANDUM FOR:** All Field Office Directors  
All Special Agents in Charge  
All Chief Counsel

**FROM:** John Morton  
Director 

**SUBJECT:** Civil Immigration Enforcement: Guidance on the Use of Detainers  
in the Federal, State, Local, and Tribal Criminal Justice Systems

Purpose

This memorandum provides guidance on the use of U.S. Immigration and Customs Enforcement (ICE) detainers in the federal, state, local, and tribal criminal justice systems. This guidance applies to all uses of ICE detainers regardless of whether the contemplated use arises out of the Criminal Alien Program, Secure Communities, a 287(g) agreement, or any other ICE enforcement effort. This guidance does not govern the use of detainers by U.S. Customs and Border Protection (CBP). This guidance replaces Sections 4.2 and 4.5 of the August 2010 *Interim Guidance on Detainers* (Policy Number 10074.1) and otherwise supplements the remaining sections of that same guidance.

Background

In the memorandum entitled *Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens*, issued in June 2010,<sup>1</sup> ICE set forth clear priorities that guide its civil immigration enforcement. These priorities ensure that ICE's finite enforcement resources are dedicated, to the greatest extent possible, to individuals whose removal promotes public safety, national security, border security, and the integrity of the immigration system.

As ICE's implementation of these priorities continues, it is of critical importance that ICE remain focused on ensuring that the priorities are uniformly, transparently, and effectively pursued. To that end, ICE issues the following guidance governing the use of detainers in the nation's criminal justice system at the federal, state, local, and tribal levels. This guidance will ensure that the agency's use of detainers in the criminal justice system uniformly applies the

<sup>1</sup> As amended and updated by the memorandum of the same title issued March 2, 2011.

principles set forth in the June 2010 memorandum and is consistent with the agency's enforcement priorities.

### National Detainer Guidance

Consistent with ICE's civil enforcement priorities and absent extraordinary circumstances, ICE agents and officers should issue a detainer in the federal, state, local, or tribal criminal justice systems against an individual only where (1) they have reason to believe the individual is an alien subject to removal from the United States and (2) one or more of the following conditions apply:

- the individual has a prior felony conviction or has been charged with a felony offense;
- the individual has three or more prior misdemeanor convictions;<sup>2</sup>
- the individual has a prior misdemeanor conviction or has been charged with a misdemeanor offense if the misdemeanor conviction or pending charge involves—
  - violence, threats, or assault;
  - sexual abuse or exploitation;
  - driving under the influence of alcohol or a controlled substance;
  - unlawful flight from the scene of an accident;
  - unlawful possession or use of a firearm or other deadly weapon;
  - the distribution or trafficking of a controlled substance; or
  - other significant threat to public safety;<sup>3</sup>
- the individual has been convicted of illegal entry pursuant to 8 U.S.C. § 1325;
- the individual has illegally re-entered the country after a previous removal or return;
- the individual has an outstanding order of removal;
- the individual has been found by an immigration officer or an immigration judge to have knowingly committed immigration fraud; or
- the individual otherwise poses a significant risk to national security, border security, or public safety.<sup>4</sup>

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<sup>2</sup> Given limited enforcement resources, three or more convictions for minor traffic misdemeanors or other relatively minor misdemeanors alone should not trigger a detainer unless the convictions reflect a clear and continuing danger to others or disregard for the law.

<sup>3</sup> A significant threat to public safety is one which poses a significant risk of harm or injury to a person or property.

<sup>4</sup> For example, the individual is a suspected terrorist, a known gang member, or the subject of an outstanding felony arrest warrant; or the detainer is issued in furtherance of an ongoing felony criminal or national security investigation.

### Revised Detainer Form

To ensure consistent application of this guidance, ICE will revise the DHS detainer form, Form I-247. The revised detainer form, which should be used in all cases once it is issued, will specifically list the grounds above and require the issuing officer or agent to identify those that apply so that the receiving agency and alien will know the specific basis for the detainer. The changes to the form will make it easy for officers and agents to document the immigration enforcement priorities and prosecutorial discretion analysis they have completed leading to the issuance of the detainer.

### Prosecutorial Discretion

This guidance identifies those removable aliens in the federal, state, local, and tribal criminal justice systems for whom a detainer may be considered. It does not require a detainer in each case, and all ICE officers, agents, and attorneys should continue to evaluate the merits of each case based on the June 2011 memorandum entitled *Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens* and other applicable agency policies.

### Six-Month Review

ICE Field Office Directors, Chief Counsel, and Special Agents in Charge should closely evaluate the implementation and effect of this guidance in their respective jurisdictions for a period of six months from the date of this memorandum. Based on the results of this evaluation, ICE will consider whether modifications, if any, are needed.

### Disclaimer

This guidance does not create or confer any right or benefit on any person or party, public or private. Nothing in this guidance should be construed to limit ICE's power to apprehend, charge, detain, administratively prosecute, or remove any alien unlawfully in the United States or to limit the legal authority of ICE or its personnel to enforce federal immigration law. Similarly, this guidance, which may be modified, superseded, or rescinded at any time, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.

This guidance does not cover or control those detainers issued by officers and agents of CBP. Detainers issued by CBP officers and agents shall remain governed by existing CBP policy, and nothing in this guidance is intended to limit CBP's power to apprehend, charge, detain, or remove any alien unlawfully in the United States.



**From:** (b)(6), (b)(7)c  
**To:** (b)(6), (b)(7)c  
**Cc:**  
**Subject:** RE: Distribution of the American Bar Association Know Your Rights Manual in ICE Detention Facilities in Five Additional  
**Date:** Wednesday, October 16, 2013 4:04:01 PM

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Mr. (b)(6), (b)(7)c

The purpose of this email is to inform you that the “know your rights “ manuals in the five (5) additional languages have been printed, bound and placed in the designated ICE units. Additionally, the icons have been added to the law library computer.

Please let me know if there are any other concerns.

(b)(6), (b)(7)c

Lieutenant-287g-/ Transportation

3841 Leeds Ave.

Charleston, SC 29405

843-529 (b)(6), (b)(7)c office

843-529 (b)(6), (b)(7)c fax

---

**From:** (b)(6), (b)(7)c  
**Sent:** Monday, October 07, 2013 3:48 PM  
**To:** (b)(6), (b)(7)c  
**Cc:**  
**Subject:** FW: Distribution of the American Bar Association Know Your Rights Manual in ICE Detention Facilities in Five Additional

LT (b)(6), (b)(7)c HQ has requested we post the Know your rights manual in five additional languages. (The manual is available in those five languages at the link below.) This is just like the English Spanish version, they want us to make an icon for it on the law library computer and then make a hard copy in the binder as well. If you could make sure someone does this and then let me know. This has to be reported completed back up the chain before October 22, 2013, so the sooner we can get this done, the better.

Thanks for your help in complying with these HQ directives!

(b)(6), (b)(7)c

**Assistant Field Office Director**  
**US DHS ICE ERO**  
**South Carolina ERO Operations**

**3950 Faber Place Drive  
North Charleston, SC 29405**

**(c) 404-449-** [redacted]  
**(o) 843-746** [redacted]

[redacted]@dhs.gov

Leadership is solving problems. The day soldiers stop bringing you their problems is the day you have stopped leading them. They have either lost confidence that you can help or concluded you do not care. Either case is a failure of leadership. ----- Colin Powell

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**From:** [redacted]  
**Sent:** Monday, October 07, 2013 3:24 PM

**To:** [redacted]  
[redacted] (b)(6), (b)(7)c

**Cc:** [redacted]  
**Subject:** Distribution of the American Bar Association Know Your Rights Manual in ICE Detention Facilities in Five Additional

Good Afternoon,

Please see the below email from HQ regarding the American Bar Association (ABA) "Know Your Rights" (KYR) manuals, which are now available in the following five languages: Arabic, French, Portuguese, Chinese and Vietnamese.

All over-72 hour facilities must ensure that:

- 1) All five languages of the ABA KYR manuals are downloaded, printed, and delivered to all law libraries in your area of responsibility (AOR);
- 2) The manuals are saved as icons on the law library computers (for example, create a shortcut on the Windows desktop).

The latest versions of the manuals, in all five languages, are available on the ICE intranet at <https://insight.ice.dhs.gov/ero/custody/Pages/dmd.aspx>.

The following over-72 hour facilities fall within our AOR:

- York County
- Henderson County
- Charleston County

- Atlanta City Detention Center
- Irwin County Detention Center
- Stewart Detention Center
- North Georgia Detention Center

Please send completion responses to the (b)(6), (b)(7)c mailbox by COB on **Tuesday, October 22, 2013.**

Thank you,

(b)(6), (b)(7)c

**Deportation Officer**  
**Executive Response Unit**  
**DHS-ICE-ERO**  
**Atlanta Field Office**  
**Desk: 404-893** (b)(6), (b)(7)c  
**Cell: 404-354** (b)(6), (b)(7)c

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**From:** ERO Taskings  
**Sent:** Monday, October 07, 2013 11:20:19 AM (UTC-05:00) Eastern Time (US & Canada)  
**Subject:** Distribution of the American Bar Association Know Your Rights Manual in ICE Detention Facilities in Five Additional

*The following message is being sent on behalf of (b)(6), (b)(7)c Assistant Director for Custody Management, with concurrence by (b)(6), (b)(7)c Assistant Director for Field Operations:*

**To:** Field Office Directors, Deputy Field Office Directors, and Assistant Field Office Directors  
**Subject:** Distribution of the American Bar Association Know Your Rights Manual in ICE Detention Facilities in Five Additional Languages

As a follow-up to the August 29, 2013, broadcast message concerning the distribution of the American Bar Association (ABA) Commission on Immigration Know Your Rights (KYR) Manual in English and Spanish to all detainees in ICE's authorized over-72 hour facilities, this manual is now available in the following languages: Arabic, French, Portuguese, Chinese and Vietnamese.

We request all ERO field offices ensure that the additional five languages of the ABA KYR Manual are downloaded, printed, and delivered to all over-72 hour detention facility law libraries in your area of responsibility (AOR). In addition to a hard copy of the ABA KYR

Manuals in all over-72 hour facility law libraries, CMD requests that the manuals also be saved as an icon on the law library computers (for example, create a shortcut on Windows desktop). The latest version of the manuals, in all five languages, are available on the ICE intranet at <https://insight.ice.dhs.gov/ero/custody/Pages/dmd.aspx>.

Questions regarding this broadcast message should be addressed to (b)(6), (b)(7)c, Deputy Assistant Director, CMD/Custody Programs and Community Outreach. He can be reached at (202) 732-(b)(6), (b)(7)c or by email at (b)(6), (b)(7)c@ice.dhs.gov.

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**From:** [redacted]  
**To:** [redacted] (b)(6), (b)(7)c  
**Cc:**  
**Subject:** Re: Horry County Mini Surge  
**Date:** Saturday, June 16, 2012 3:43:50 PM

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Good afternoon guys...

IEA [redacted] and I interviewed 6 (six) detainees today at Horry County Jail.

We placed 0 (zero) detainees, as all Aliens were charged with minor traffic violations and all were eligible for discretion under the newly announced policy on humanitarian, non-criminal grounds.

All Aliens were vetted through the LESC and IEA [redacted] obtained copies of the booking sheets/FD 249s in the event our guidance shifts over the next few weeks.

IEA [redacted] and I will report to Horry County again at [redacted] tomorrow to continue the surge; I'll update tomorrow following the op.

[redacted] (b)(6), (b)(7)c  
Acting SDDO  
USDHS/ICE  
Columbia, SC  
[redacted] (b)(6), (b)(7)c

---

**From:** [redacted] (b)(6), (b)(7)c  
**Sent:** Friday, June 15, 2012 09:45 AM  
**To:** [redacted]  
**Cc:** [redacted] (b)(6), (b)(7)c  
**Subject:** Re: Horry County Mini Surge

10-4...

[redacted] (b)(6), (b)(7)c give me a shout when you get there... I'm driving down in the am.

[redacted] (b)(6), (b)(7)c  
Acting SDDO  
USDHS/ICE  
Columbia, SC  
[redacted] (b)(6), (b)(7)c

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**From:** [redacted] (b)(6), (b)(7)c  
**Sent:** Friday, June 15, 2012 09:43 AM  
**To:** [redacted] (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: Horry County Mini Surge

Good morning gentlemen,

Thank you again for volunteering to work the CAP Mimi Surge in Horry County. Meet time at the J. Reuben Long Detention Facility will be (b)(7)e for both days. The address is 4150 J Reuben Long Avenue Conway, SC 29526.

I just spoke with Captain (b)(6), (b)(7)c She (b)(7)e (b)(7)e They are expecting us, so I do not expect any issues.

Your POC's will be:

Lt (b)(6), (b)(7)c Shift Supervisor -- 843-915 (b)(6), (b)(7)c

Cpl (b)(6), (b)(7)c Booking Supervisor -- 843-915 (b)(6), (b)(7)c

When lodging detainer, please abide by the current CAP protocols. Be mindful that we can also place SUBJECT's on OREC/OSUP if need be. That being said, you may want to go with some blank OREC/OSUP papers, along with scratch I-213s and detainers.

Captain (b)(6), (b)(7)c advised me that you will be working in an area that will have a phone (if we need to contact the LESC) in case our cells do not have reception there.

(b)(6), (b)(7)c since you have a BB, can you please send me the "Stats" daily. I will be looking for the following info:

- # of detainees interviewed/screened
- Detainers, broken down by SCI Levels 1, 2 and 3

Do not hesitate to call me if you have any questions. Again, thank you and be safe.

Regards,

(b)(6), (b)(7)c

**Supervisory Detention & Deportation Officer**  
**CAP/VCAS**  
**3950 Faber Place Drive**  
**North Charleston SC 29405**  
**843-480 (b)(6), (b)(7)c**

**From:** (b)(6), (b)(7)c  
**To:**  
**Subject:** RE: Proposed S. Carolina Secure Communities SOP  
**Date:** Monday, March 05, 2012 4:36:45 PM  
**Attachments:** [SC Secure Communities SOP.doc](#)

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Sir sorry for the delay please see attached with the 287g IARs included

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**From:** (b)(6), (b)(7)c  
**Sent:** Monday, March 05, 2012 2:09 PM  
**To:** (b)(6), (b)(7)c  
**Subject:** RE: Proposed S. Carolina Secure Communities SOP

We need to add that a folder will be made for Charleston County 287G and those hits will be put into that folder. The 287G supervisor will be responsible for the 287G program officers making an enforce entry for each IAR.

If you could add that blurb and return to me, that would be great! (I am on a phone conference right now....

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**From:** (b)(6), (b)(7)c  
**Sent:** Monday, March 05, 2012 12:47 PM  
**To:** (b)(6), (b)(7)c  
**Cc:** (b)(6), (b)(7)c  
**Subject:** Proposed S. Carolina Secure Communities SOP

Anyone have any comments or additions so we can get this completed and up to ATL.

Thanks

(b)(6), (b)(7)c

## South Carolina Secure Communities SOP

**SCOPE:** To all South Carolina ERO officers and supervisors.

**OBJECTIVE:** To provide guidance for all South Carolina ERO officers and supervisors on procedures to be followed for all IAR/IAQ hits from the Secure Communities terminal.

**DESCRIPTION:** All ERO personnel who encounter IAR/IAQ hits are to follow the below guidelines for submission of these encounters into the ENFORCE Module.

- 1) Monday through Friday, a Charleston officer will pull all IARs from the terminal, query the ORI code and place them in the appropriate zone based on location of arrest facility. Note that in addition to being placed in the appropriated “Zone” folder, Columbia IARs are also to be sent via email to all Columbia officers with the facility of arrest annotated in the email.
- 2) After each hit is vetted by an officer and an appropriate action is taken, an ENFORCE event will be created with no less than all biographical information and crime entry with a brief I213 narrative to explain case disposition. Once the event is created, the hit will be renamed in the shared drive “All Hits” folder as the ENFORCE EVENT number. Columbia will send back all COA IARs with the appropriate ENFORCE EVENT number annotated to be placed in the appropriate folder.
- 3) Weekends, a Charleston Officer will pull all IARs from the terminal, query the ORI code and place them in the appropriate zone based on location of arrest facility. After each hit is vetted by such officer and an appropriate action is taken, an ENFORCE event will be created with no less than all biographical information and crime entry with a brief I213 narrative to explain case disposition. The IAR will be renamed to correspond with the ENFORCE Event number and placed in the appropriate folder. If a detainer is lodged, within the Charleston AOR, it is to be created through ENFORCE and will be forwarded via email to SDDO (b)(6), (b)(7)c or acting CAP SDDO. All Columbia detainers are to be sent via email to all Columbia officers. All Greer detainers are to be sent via email to all Greer officers.
- 4) All IARs received from an approved 287g facility will be forwarded to the supervisor over that Unit for ENFORCE entry on each IAR.



**From:** (b)(6), (b)(7)c  
**To:** (b)(6), (b)(7)c  
**Cc:**  
**Subject:** RE: SC DPS cases/encounters  
**Date:** Wednesday, January 09, 2013 9:14:20 AM

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I do not believe we should deviate from any of our current processes. If HSI wants/needs them processed, than they should handle them.

If we are encountering the cases as part of a Secure Communities hit and determine that they meet our enforcement priorities, I believe we are on solid ground. That being said, we need to take a very close look at these cases with only arrests, as these types of cases have a huge potential for many of the local/state charges to be dropped and then we get stuck with a "recent border entrant", which may meet the priorities, but will not garner much support from ICE. If the aliens are convicted, I believe this is a non-issue and the cases should be handled through our normal processes.

Thank you.

(b)(6), (b)(7)c

(b)(6), (b)(7)c  
Deputy Field Office Director  
Atlanta Field Office  
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Fax.: (404) 893 (b)(6), (b)(7)c  
(b)(6), (b)(7)c @dhs.gov

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**From:** (b)(6), (b)(7)c  
**Sent:** Wednesday, January 09, 2013 8:49 AM  
**To:** (b)(6), (b)(7)c  
**Subject:** FW: SC DPS cases/encounters  
**Importance:** High

(b)(6), (b)(7)c

SC as you know has a DPS unit that has been given the authority to question people as to their status in the US. However, their authority to arrest people based on immigration was struck down. I think in the scenario presented below, in which the subjects were charged with possession of fraudulent credit cards, we are good, since they are charged with something. Also, as long as we follow the prosecutorial discretion guidelines and don't process them unless they are both recent entries to the US, have convictions, etc... we are good.

Do you see any issues with interviewing and processing these aliens if they meet our guidelines?

The only landmine I saw before was if these officers would lock someone up with a state immigration charge, but that will not be the case, since they lost the supreme court case.

Just wanted to let you know about these types of cases in case you have any misgivings and in case the media asked about what the unit is doing in the future.

Any reason not to proceed to interview?

Thanks!

(b)(6), (b)(7)c

**Assistant Field Office Director**  
**US DHS ICE ERO**  
**South Carolina ERO Operations**  
**3950 Faber Place Drive**  
**North Charleston, SC 29405**  
**(c) 404-449**  
**(o) 843-746**

(b)(6), (b)(7)c

@dhs.gov

Leadership is solving problems. The day soldiers stop bringing you their problems is the day you have stopped leading them. They have either lost confidence that you can help or concluded you do not care. Either case is a failure of leadership. ----- Colin Powell

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**From:** (b)(6), (b)(7)c  
**Sent:** Tuesday, January 08, 2013 7:12 PM  
**To:** (b)(6), (b)(7)c  
**Subject:** SC DPS cases/encounters  
**Importance:** High

(b)(6), (b)(7)c what's our (ATL Field Office) stance on the SC DPS Immigration Unit cases?

We're finding that the DPS Unit assigned to HSI is becoming more active and making more arrests (at times w/ HSI's assistance... other times on their own State authority); if the arrests are being made in conjunction w/an HSI operation, HSI is placing detainers and processing the cases; however if the arrest is being made on the Unit's State authority, HSI is not placing detainers and it's been up to the County jail to notify ERO of a "foreign born" Alien.

I just spoke with (b)(6), (b)(7)c and he explained that the Unit is not authorized to enforce any "immigration" laws, nor does it have the authority to arrest based on their belief of someone

"being illegally in the US" (all struck down by the Supreme Court), rather they are making the majority of their arrests based on the section of the SC law that the Supreme Court allowed, ie identity theft, counterfeit documents, etc.

These arrests have the potential to be a boom to our numbers... but there is a potential land mine:

1. To be honest, I don't see a huge difference between our everyday Secure Community/CAP encounters and these cases... IF the Unit is arresting based on their State authority AND we're being notified by the County jails or through Secure Communities/CAP, but... with the Unit being housed with HSI, I have no doubt the public views these arrests as being made "by ICE" or "with ICE" and will be heavily, heavily scrutinized, as will our encounters.

Has ATL or OCC offered any guidance/direction?

(b)(6), (b)(7)c  
SDDO  
USDHS/ICE  
Columbia, SC

(b)(6), (b)(7)c@ice.dhs.gov  
Desk: 803771 (b)(6), (b)(7)c  
BB: 84343 (b)(6), (b)(7)c

---

**From:** (b)(6), (b)(7)c  
**Sent:** Tuesday, January 08, 2013 10:43 AM  
**To:** (b)(6), (b)(7)c  
**Cc:** (b)(6), (b)(7)c  
**Subject:** Interview and Detainers

(b)(6), (b)(7)c

We received info from the DPS supervisor that Sumter CO. Sherriff was looking for some help with 2 guy that are IN custody in Sumter County Jail.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Is there any chance that one of your guys can interview these subjects to see if they are illegal and if so that detainers are lodged?

They are in for possession of 21 fraudulent credit cards (each). They are trying to suppress the evidence against them and refuse to accept time served.

[redacted] (b)(7)e [redacted] but if you can see about getting someone to interview them.

Please let me know

[redacted] (b)(6), (b)(7)c [redacted]

[redacted] (b)(6), (b)(7)c [redacted]

*Special Agent*  
*U.S. Department of Homeland Security*  
*Homeland Security Investigations*  
*1835 Assembly Street*  
*Suite 358*  
*Columbia, SC 29201*  
*Ph: 803-771-[redacted]*  
*Fax: 803-765-[redacted]*

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**From:** (b)(6), (b)(7)c  
**To:** (b)(6), (b)(7)c  
**Cc:**  
**Subject:** RE: Upcoming CAP Surges  
**Date:** Monday, June 25, 2012 8:06:07 AM  
**Importance:** High

---

Good Morning:

Here are the results from the weekend, as requested:

**ERO Atlanta**

**Office Event Description:** ERO Atlanta, Charleston Sub-Office will conduct a mini CAP Surge

**Location:** Beaufort County Detention Center, Beaufort County, South Carolina

**Date(s):** June 23 – 24, 2012

**Expected Media Coverage:** No media coverage is expected as a result of this enforcement action

**Juvenile Presence Expected:** No juvenile presence is expected during this enforcement action

**Sensitive Locations:** No enforcement actions will occur at or near sensitive locations

**Total Targets:** Targets are dependent upon the number of those booked into the jail during the operation. Officers will ensure that those targeted meet current ICE priorities

Each target will be vetted to make sure it meets ICE priorities and for prosecutorial discretion factors prior to being targeted for the operation and all arrests will be vetted to make sure that they meet ICE priorities and for prosecutorial discretion factors at the time of encounter.

**Results:**

**Level 1 criminal alien: 0**  
**Level 2 criminal alien: 0**  
**Level 3 criminal alien: 2**  
**Fugitive aliens: 0**  
**Re-entries: 0**  
**Recent Border Entrants: 0**

Two NTAs were processed this weekend as a result of the surge. A third SUBJECT was interviewed, but was an LPR not amenable to removal with his charges/convictions.

Please advise if you require further information.

**Regards,**

(b)(6), (b)(7)c

**Supervisory Detention & Deportation Officer**

**CAP/VCAS**

**3950 Faber Place Drive**

**North Charleston SC 29405**

**843-480** (b)(6), (b)(7)c

---

**From:** (b)(6), (b)(7)c  
**Sent:** Friday, June 22, 2012 1:28 PM

To: [redacted] (b)(6), (b)(7)c  
**Subject:** FW: Upcoming CAP Surges  
**Importance:** High

Good Afternoon All,

Would you all mind sending us the final numbers for the CAP surges this weekend early Monday morning? We are not going to be reporting them Sunday night as requested below but I need to have it to them no later than 9am. I would really appreciate it.

Thank you,

[redacted] (b)(6), (b)(7)c

**Deportation Officer**  
**Executive Response Unit**  
**DHS-ICE-ERO**  
**Atlanta Field Office**  
**Desk: 404-898-[redacted] (b)(6), (b)(7)c**  
**Cell: 404-354-[redacted] (b)(6), (b)(7)c**

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**From:** [redacted] (b)(6), (b)(7)c  
**Sent:** Friday, June 22, 2012 10:25 AM  
**To:** [redacted] (b)(6), (b)(7)c  
**Cc:** [redacted] (b)(6), (b)(7)c  
**Subject:** Upcoming CAP Surge

Good morning [redacted] (b)(6), (b)(7)c

ERO Atlanta is conducting the below enforcement action this weekend. As a friendly reminder, HQ Field Operations has to present the statistics of this operation to the Front Office via the Operations Calendar by 10:00 am on Monday morning. My suggestion to ERO Atlanta is to have the reports team submit these stats to the ERO Operations Center mailbox and kindly cc: me on Sunday evening upon conclusion of the operation. Thank you.

**ERO Atlanta**

**Office Event Description:** ERO Atlanta, Charleston Sub-Office will conduct a mini CAP Surge

**Location:** Beaufort County Detention Center, Beaufort County, South Carolina

**Date(s):** June 23 – 24, 2012

**Expected Media Coverage:** No media coverage is expected as a result of this enforcement action

**Juvenile Presence Expected:** No juvenile presence is expected during this enforcement action

**Sensitive Locations:** No enforcement actions will occur at or near sensitive locations

**Total Targets:** Targets are dependent upon the number of those booked into the jail during the operation. Officers will ensure that those targeted meet current ICE priorities. Each target will be vetted to make sure it meets ICE priorities and for prosecutorial discretion factors prior to being targeted for the operation and all arrests will be vetted to make sure that they meet ICE priorities and for prosecutorial discretion factors at the time of encounter.

**Results:**

- Level 1 criminal alien:**
- Level 2 criminal alien:**
- Level 3 criminal alien:**
- Fugitive aliens:**
- Re-entries:**
- Recent Border Entrants:**

Regards,

(b)(6), (b)(7)c

Detention & Deportation Officer (Newark & New York)

Field Operations-East

Enforcement & Removal Operations

U.S. Immigration & Customs Enforcement

500 12<sup>th</sup> St. SW

Washington, D.C. 20024

(202) 732- office

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**From:** (b)(6), (b)(7)c  
**To:** (b)(6), (b)(7)c  
**Cc:**  
**Subject:** Signed Lexington annual  
**Date:** Tuesday, November 27, 2012 8:39:15 AM  
**Attachments:** [287\(g\) Annual Review Memo - Lexington-FY12.pdf](#)

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Lexington Annual Memo, signed by FOD

(b)(6), (b)(7)c  
287g Program Manager  
704-965 (b)(6), (b)(7)c






U.S. Immigration  
and Customs  
Enforcement

November 20, 2012

MEMORANDUM FOR: Daniel Ragsdale  
Acting Deputy Director

THROUGH: Gary Mead  
Executive Associate Director

FROM: David D. Rivera   
Acting Field Office Director  
Atlanta Field Office

SUBJECT: FOD Oversight and Data Quality Review of the Lexington  
County Sheriff's Office 287(g) Program Fiscal Year 2012

**Background:**

The Lexington County Sheriff's Office's (LCSO) 287(g) has been participating in the 287(g) program under the Jail Enforcement Model since August 19, 2010. Since that time the LCSO's 287(g) program has been a valued law enforcement agency (LEA) partner of the Atlanta Field Office. Currently there are five (5) Lexington County 287(g) Designated Immigration Officers (DIOs) authorized and actively using their 287(g) authority. The LCSO DIOs are assigned to the booking area of the jail when performing 287(g) duties and they screen all foreign-born persons arrested and booked into the Lexington County Detention Center.

The LCSO 287(g) program is supervised by Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) FOD/Atlanta. The LCSO 287(g) program is one of twelve 287(g) programs in the FOD/Atlanta Area of Responsibility (AOR). The program has one Supervisory Detention and Deportation Officer (SDDO), that oversees a full time Immigration Enforcement Agent assigned to monitor the LCSO 287(g) program on a daily basis and to ensure compliance with ICE policies/priorities and the MOA. Additionally the Atlanta Field Office has a Detention and Deportation Officer, Program Manager (DDO-PM) to administer and manage this 287(g) program along with one other 287(g) program in the state of South Carolina.

**Training:**

The LCSO has  certified DIOs that have successfully completed the required Immigration Authority Delegation Program (IADP) training.  new DIOs were trained during Fiscal Year 2012 (FY12) and the LCSO plans to send  officers to IADP during Fiscal Year 2013 (FY13). All DIOs participating in the LCSO 287(g) program are required to complete any and all additional training deemed necessary by ICE/ERO Headquarters (HQ)

SUBJECT: FOD Oversight and Data Quality Review of the Lexington County Sheriff's Office 287(g) Program Fiscal Year 2012

Page 2

287(g) Unit. Periodic notifications are sent by the Program Manager to ensure all training is completed in a timely manner. If a deficiency is identified, the issue is quickly resolved and proper notifications are sent to the ICE/ERO HQ 287(g) Unit confirming the completion of the required training. The Atlanta Field Office also ensures that all ICE and ERO policies and procedures concerning enforcement operations are distributed to the DIOs and the LCSO command staff. Currently all of the LCSO DIOs participating in the 287(g) program are in compliance with all mandatory training requirements, including all mandated courses in Virtual University.

The LCSO has [redacted (b)(7)e] who are assigned to supervise and monitor the DIOs assigned to the LCSO 287(g) program. The sergeant completed IADP training and therefore she too is a certified DIO.

**Data Quality:**

In order to provide accurate information regarding the criminality levels of aliens encountered by the LCSO 287(g) program, information must be properly recorded in ENFORCE by all DIOs. Throughout FY12 the Atlanta Field Office in conjunction with the ERO 287(g) Unit at Headquarters has monitored data quality issues. Reported errors were reviewed and if a deficiency was discovered the DIOs were advised of the error and the error was corrected. Additionally the DIOs were provided additional guidance and training to prevent errors. Error rates for this program have continued to improve and the Atlanta Field Office will continue to monitor data quality issues to minimize errors and ensure data quality.

The table below provides data on the number of encounters and arrests made by the LCSO 287(g) program during FY12.

Offense Category	Encounters		Processed for Removal/VR				Removals/VR			
	Total	% Total	Criminals	Non-Criminals	Total	% Total	Criminals	Non-Criminals	Total	% Total
NCIC Level 1*	31	7.8%	26	0	26	7.5%	13	2	15	9.0%
NCIC Level 2	57	14.4%	57	0	57	16.5%	30	4	34	20.4%
NCIC Level 3**	143	36.1%	124	0	124	35.9%	50	12	62	37.1%
Traffic - DUI	61	15.4%	56	0	56	16.2%	32	4	36	21.6%
Traffic - Other	103	26.0%	0	82	82	23.8%	15	5	20	12.0%
None	1	0.3%	0	0	0	%	0	0	0	0%
No Data	0	0.0%	0	0	0	%	0	0	0	0%
<b>TOTALS</b>	<b>396</b>	<b>100.0%</b>	<b>263</b>	<b>82</b>	<b>345</b>	<b>100.0%</b>	<b>140</b>	<b>27</b>	<b>167</b>	<b>100.0%</b>

The 287(g) program at the Lexington County Sheriff's Office is operating in compliance with ICE priorities and the MOA. As previously cited, all foreign-born persons arrested and booked into the Lexington County Jail are screened to determine if they are subject to removal based on violations of the Immigration and Nationality Act (INA). Level 1 and Level 2 offenders are given the highest priority and processed before others, however the LCSO has an adequate number of DIOs to identify and process most of the removable aliens encountered after they have been arrested and booked into the jail for a criminal offense(s) by the multiple state and local law enforcement agencies operating within Lexington County, SC.

The DIOs conduct criminal history checks and immigration status checks on each person to determine if the person is subject to removal from the United States based on their criminal history/convictions or their immigration status. Race and/or ethnicity are not used to determine who does or does not get screened as the only factor considered is place of birth. Screening all arrested foreign-born persons ensures uniform application of the screening process and prevents allegations of selective enforcement of the law and/or racial profiling.

Of the 345 aliens processed for removal or voluntary return (VR) by the LCSO 287(g) DIOs, 24% fall within Level 1 and 2 offenses, i.e. ICE priorities. Level 3 offenses totaled 35.9% and "Traffic DUI", another ICE priority, totaled 16.2% of the cases processed. Therefore the total percentage for Level 1, 2, 3 and "Traffic DUI" offenders was 76.1% for all cases processed and represented 88% of the total removals in FY12. It should be noted that the percentage of removals would have most likely been higher however several of the aliens processed for removal as Level 1, 2, 3 or "Traffic DUI" offenders during FY12 were not removed during the fiscal year because they are pending trial, serving prison/jail sentences or their cases are still pending with the state, local or immigration courts.

Only one case out of 396 encounters were identified as "No Data". That case was not processed for removal and was corrected during routine audits for data quality. There were no "None" cases for FY12. There were 56 (16.2%) removable aliens processed under the "Traffic-DUI" category and 36 of those cases were removed from the United States during FY12.

During FY12 the LCSO encountered 103 offenders under the "Traffic-Other" category. During the review it was noted that many of the offenders arrested for "Traffic-Other" violations were also ICE fugitives, aliens who reentered the United States after having been previously removed or recent illegal entrants. During FY12 the CCSO 287(g) program processed over 25 ICE fugitives. Of the 103 cases, 82 (80.5%) were processed for removal or VR and 20 were removed from the United States. The 21 cases that were not processed for removal under this category were cases where prosecutorial discretion was exercised or it was determined that the aliens were lawful permanent residents, not amenable to removal, or non-removable aliens or naturalized United States citizens (USCs).

The LCSO is fully aware and have communicated to all of the police departments operating in the county that they need to be vigilant against racial profiling. To date there have been no reported allegations of racial profiling against the local or state police departments in Lexington County, SC.

**Statistics:**

Per the MOA, law enforcement agencies (LEAs) are expected to pursue to completion all criminal charges that cause the alien to be taken into custody within their jurisdiction. Of the 345 aliens processed by 287(g) DIOs, there were nine cases turned over to ICE without prosecution and only .001% of the cases encountered were dismissed.

SUBJECT: FOD Oversight and Data Quality Review of the Lexington County Sheriff's Office 287(g) Program Fiscal Year 2012

Page 4

The LCSO provided statistics for the overall number of arrests and charges for FY12. During FY12 there were 30,772 persons arrested and booked into the Lexington County Detention Center. The table below provides comparative data on the current disposition of the 287(g) Jail Enforcement Model at the LCSO.

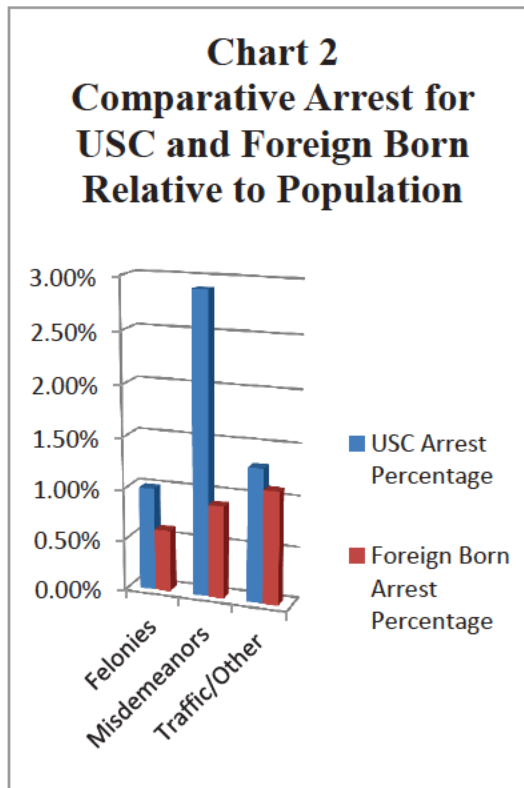
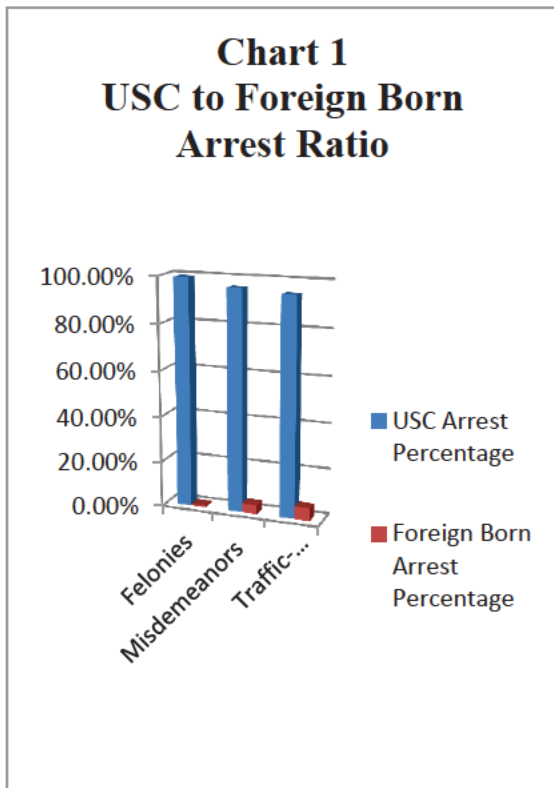
FY11 Lexington County Sheriff's Office Comparative Data							
Offense Category	LEA Arrest Data	287g Foreign Born Arrest Data	USC Arrest Data	USC Arrest Percentage (See Chart 1)	Foreign Born Arrest Percentage (See Chart 1)	Percentage of USC Arrest Relative to Population (See Chart 2)	Percentage of Foreign Born Arrest Relative to Population (See Chart 2)
Felonies	2,620	83	2,537	96.8 %	3.2%	1.0%	.6%
Misdemeanors	7,532	124	7,408	98.3 %	1.7%	2.9%	.9 %
Traffic-DUI/Other	3,642	155	3,487	95.7%	4.3%	1.3 %	1.1%

Total Population	USC Population	Foreign Born Population	USC Population Percentage	Foreign Born Population Percentage
267,129	253,773	13,356	95%	5%

*Notes: The figure above for "287(g) Foreign Born Arrest Data" for Felonies reflects NCIC Level 1 offenses  
The figure for Misdemeanors reflects NCIC Level 2 and 3 offenses*

*The population figures above were obtained from the U.S. Census Bureau, 2011 estimates  
(<http://quickfacts.census.gov/qfd/states/13/13135.html>)*

The information from the tables above are displayed into comparative charts on the following page which reflects that the percentage of foreign-born persons arrested for all offenses in Lexington County, SC is significantly lower than the percentages of USCs arrested (Chart 1). Additionally when the arrests for USCs and foreign-born persons are compared against their relative percentage of the county population, the percentage of foreign-born persons arrested is again significantly lower than their representative population in the county (Chart 2).



**Steering Committee:**

The Steering Committee Meeting was conducted on June 11, 2012 at the Lexington County Sheriff's Office. The following participants attended:

*ICE-ERO*

Felicia Skinner, Field Office Director

(b)(6), (b)(7)c Deputy Field Office Director  
DDO- 287(g) Program Manager

(b)(6), (b)(7)c AFOD

SDDO (b)(6), (b)(7)c Lexington County 287(g) program

*Lexington County Sheriff's Office*

Sheriff James Metts

Chief (b)(6), (b)(7)c

Major (b)(6), (b)(7)c

Captain (b)(6), (b)(7)c

Lt. (b)(6), (b)(7)c

The following topics discussed during the meeting:

- Statistical Overview from the 287(g) program for FY11
- ICE priorities, prosecutorial discretion and Deferred Action for Childhood Arrivals (DACA)
- Inform the LCSO that their 287(g) program is tentatively scheduled for a Focus Review this year by the Office of Professional Responsibility (OPR)
- Reemphasize procedures outlined in the MOA that notification to OPR is required anytime complaints, allegations are filed or disciplinary action is taken against any DIO
- Reemphasize procedures and protocol for handling claims to U.S. citizenship
- Data quality issues
- Discuss any media issues and the need to coordinate with ICE as required in the MOA
- Training needs of the LCSO for the 287(g) program
- Any other issues the LCSO Sheriff or the command staff may want to discuss

**OPR/MIU:**

During FY12 there were no complaints or allegations received by the LCSO or ICE related to the 287(g) program. Additionally, there were no incidents reported to the Joint Intake Center (JIC) or OPR by the DDO-PM relating to conduct or disciplinary actions taken against any DIOs from the LCSO.

During FY12 there were no non-287(g) officer complaints received by the LCSO or ICE concerning the 287(g) program. Additionally no complaints were received by the LCSO or ICE that concerned civil rights violations or allegations that witnesses or victims of crimes were subjected to immigration enforcement actions.

**Allegations:**

There are no current investigations of the LCSO by any federal agencies concerning the 287(g) program.

**Success Stories:**

**Case-1**

A citizen and national of Mexico was encountered on January 29, 2012, by the LCSO's 287(g) program after having been arrested for a traffic offense. Upon further investigation it was discovered that the subject had been previously removed by ICE on October 22, 2005. In addition the subject had previous arrests for numerous charges with convictions for Disorderly Conduct, Public Drunkenness, No Drivers License and Criminal Domestic Violence. The subject was processed and served an I-871, Notice of Intent/Decision to Reinstate Prior Order.

**Case-2**

A citizen and national of Mexico was encountered on January 9, 2012, by the LCSO's 287(g) program after having been arrested for 2 counts of Burglary 1st degree. The subject was convicted of the charges and sentenced to ten years imprisonment. In addition to the burglary

charges, the subject's criminal history also included prior arrests and convictions for DUI and Simple Assault. The subject was unlawfully present in the United States and was processed and served an administrative removal order.

**Other:**

During FY12 there were no issues raised by any non-governmental organizations concerning the 287(g) program at the LCSO.

During FY12 there were no outreach meetings conducted by ICE or the LCSO concerning the 287(g) program at the LCSO.

**Public/Media:**

There were no known media stories about the LCSO 287(g) program in FY12 however an internet search was also conducted and no stories from FY12 were found.

The LCSO is in compliance with coordinating media inquiries and the release of information obtained from ICE systems with the Atlanta Field Office and ICE's Public Affairs Office.

**Recommendation:**

The 287(g) program is adhering to the priorities and obligations set forth in the MOA. The LCSO is a supporter of ICE's mission and exercises the 287(g) delegated authority in a uniform and consistent manner in compliance with the priorities of ICE. Level 1 and 2 offenders are always given the highest priority and other categories of criminal aliens are processed as resources permit. The LCSO screens all foreign-born persons after they been arrested by state and local law enforcement officers in order to prevent selective enforcement of the law and eliminate claims of racial profiling by the LCSO staff. The Atlanta Field Office makes all custody determinations and exercises prosecutorial discretion when merited.

The partnership that the Atlanta Field Office has with the LCSO 287(g) program has been beneficial. The program is a force multiplier and without the program the Atlanta Criminal Alien Program (CAP) would have to assume the processing of all the cases the program generates. With limited resources it is highly likely that there would be far fewer criminal, removable and fugitive aliens identified, processed and removed. The program is mutually beneficial to the LCSO and the community as the Lexington County Sheriff's Office has reported that the number of foreign-born persons committing crimes has declined since the beginning of the program.

The Atlanta Field Office supports the continuation of the 287(g) program at the LCSO and will continue to manage, oversee and monitor the program to ensure compliance with the MOA and ICE priorities.

**From:**  
**To:**

(b)(6), (b)(7)c

**Cc:**

**Subject:**

CAP Topics

**Date:**

Tuesday, April 10, 2012 3:07:35 PM

**Attachments:**

[CAP.pdf](#)

**Importance:**

High

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First and foremost, I am truly looking forward to working with all of you and making this CAP Team the top notch unit that I know it can be. We are fortunate to have some of the best and brightest Officers in the AOR in our unit, so let's learn from each other and grow.

As some of you may already know, I worked CAP/VCAS extensively over the past few years in Hendersonville. I am familiar with the operating procedures that Atlanta has established for the AOR and realize that how ATL may operate may not work in every office. That being said, I am going to develop an SOP for the Charleston CAP unit that will reflect National Standards, but suit our needs here. It will be an ongoing project for me over the next few weeks. I welcome input that any of you may have and will take all suggestions into consideration.

I have noticed a few things that will need to change immediately:

- A detainer shall not be issued without an A#. An exception to this rule is a detainer placed while on duty. Should this occur, a new detainer will be submitted to the jail with an A# on the next business day. Please remind the jails to provide a copy of the detainer to the detainee to comply with regulations.
- A detainer should never be lodged without a telephonic or in-person interview. Additionally, CAP Officers should make every effort to travel to their assigned jails to fingerprint SUBJECTs for positive identification purposes previous to the SUBJECT coming into ICE custody. The case officer can then scan the prints using (b)(7)e to determine if the SUBJECT has previously been encountered by Immigration. This also enables the case officer to complete the case BEFORE the SUBJECT comes into ICE custody, which is highly recommended.
- The Duty Officer will respond to all calls while serving in that capacity. We are not to instruct local jails to contact Bradenton on nights or weekend. That is the purpose and function of the duty officer. You shall interview the detainee, determine inadmissibility or deportability and contact the LESC to run checks and request them to assist by lodging a detainer with the local jail. You will be compensated for these calls with AUO.
- There shall only be one CHL ENFORCE event per encounter. I have seen a few cases in the past couple days that have had an ENFORCE event for a local detainer and then another ENFORCE event that the case is processed under. This should not occur. If Bradenton lodges a detainer on our behalf, we shall go into ENFORCE within 48 hours (business hours) and create a local event with an A# and resubmit the detainer to the local jails. Then the case should be completed under the same CHL event that the detainer was created under.
- All IAQs/IARs (SCI or simple name queries) must have an ENFORCE encounter created within 72 hours of receipt of the IAQ/IAR. If the SUBJECT was released before we



contacted the jail, it can be noted as such in the narrative section of the event. If the SUBJECT is an LPR and does not have criminal history rendering he/she removable, it shall be noted as such in the narrative section of the event. Processing dispositions can be noted as NIC/NAR.

- Case processing Officers will serve all charging documents on the alien while in the local jail or when they reach ICE custody. DMU is not responsible for serving charging docs on aliens processed by the CAP unit or any other unit.
- All cases encountered by the CAP team will be processed by the CAP team. For example, a Bag & Baggage encountered in Beaufort County as a result of his/her arrest on local charges, will be processed by the CAP team. I will then advise the Fugitive Operations SDDO that the SUBJECT has been encountered so that they can close the case in FCMS. The Fugitive Operations team does not derive a 'stat' from an arrest that CAP makes.
- All potential OREC/OSUP cases should be brought to the attention of the CAP Supervisor (or anyone Acting in that capacity) and he/she will make the final decision on custody. Furthermore, should the decision be made to OREC/OSUP and the SUBJECT is still in local custody, the Officer will process the case, lift the detainer in ENFORCE and go to the local jail where the SUBJECT is to serve the charging documents. There is no reason these folks should come into ICE custody if the decision has been made before hand to use discretion regarding their detention.

I have attached the Atlanta CAP SOP for guidance. As I previously stated, I will develop a Charleston SOP in the coming weeks that fits our office specifically, but you can refer to the ATL SOP as a guide.

Please feel free to come to me anytime with any questions or concerns that you may have.

Regards,

(b)(6), (b)(7)c

**Supervisory Detention & Deportation Officer  
CAP/VCAS**

**3950 Faber Place Drive  
North Charleston SC 29405**

**843-480** (b)(6), (b)(7)c

**United States**  
**Immigration and Customs Enforcement**  
**Office of Detention and Removal**

**CRIMINAL ALIEN PROGRAM**

**Atlanta Field Office**



**Operational Guide**

Revised September 2008



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## 1. Introduction

Welcome to the Atlanta Criminal Alien Program. Whether you're a DRO employee assigned to the field office, one of our other offices located in Georgia, North Carolina or South Carolina or a local law enforcement officer assigned to a 287(g) Program, we're glad to have you on board.

The Atlanta Field Office management team is committed to assisting all officers in performing your assigned duties to the best of your ability. This includes providing officers with written and verbal guidance on laws, regulations, policies, procedures and other matters related to officers' assigned duties and responsibilities. Officers are encouraged to research issues and ask questions when they need guidance on immigration enforcement issues. Supervisors, including upper management officials, are responsible for providing guidance to all team members so please do not hesitate to ask when you need assistance. The field office also encourages officers to share their thoughts and ideas on how we can improve our operations. If you believe you have an idea that will assist our efforts, please share the information with your supervisor so it can be discussed and possibly forwarded through the chain of command for consideration.

The intention of the CAP Operational Guide is to provide each officer assigned to the Criminal Alien Program (CAP) with operational overviews, procedures and information to perform his or her duties. Every effort has been made to ensure that all citations, procedures and information contained in this guide are accurate, comply with applicable laws and regulations and support current Detention and Removal Operations and Atlanta Field Office policies and procedures. The guide may be revised, as necessary, by the Assistant Field Office Director, in consultation with CAP Supervisory Detention and Deportation Officers, and will be approved by the Deputy Field Office Director and/or the Field Office Director prior to distribution.

## 2. Overview



The Mission Statement for the **Department of Homeland Security (DHS)** reads, “We will lead the unified national effort to secure America. We will prevent and deter terrorist attacks and protect against and respond to threats and hazards to the nation. We will ensure safe and secure borders, welcome lawful immigrants and visitors, and promote the free-flow of commerce.

**Bureau of Immigration and Customs Enforcement (ICE)** is the largest investigative branch within DHS and our mission is to protect America and uphold public safety. We fulfill this mission by identifying criminal activities and eliminating vulnerabilities that pose a threat to our nation’s borders, as well as enforcing economic, transportation, and infrastructure security. By protecting our national and border security, ICE seeks to eliminate the potential threat of terrorist acts against the United States.

**Office of Detention and Removal (DRO)** is an important component of ICE and DRO’s mission is to ensure the departure of all removable aliens from the United States through the fair and effective enforcement of the nation’s immigration laws. The primary responsibilities of the DRO program, as part of the DHS immigration and law enforcement mission, are to provide adequate and appropriate custody management to support removals, to facilitate the processing of illegal aliens through the immigration court, and to enforce their departure from the United States. Key elements in exercising those responsibilities include: identifying and removing all high-risk illegal alien fugitives and absconders; ensuring that those aliens who have already been identified as criminals are expeditiously removed; and to develop and maintain a robust removals program with the capacity to remove all final order cases issued annually - thus precluding growth in the illegal alien absconder populations.

One of the most important ICE mandates is the enhancement of public safety and the security of the American public. The broad authority of ICE allows for the identification and removal of dangerous, often recidivist, criminals engaged in crimes such as murder, predatory sexual offenses, narcotics trafficking, alien smuggling, and a host of other crimes that have a profoundly negative impact on our society.

**Criminal Alien Program (CAP)** is the program within DRO that focuses on identifying criminal aliens who are incarcerated within federal, state and local facilities thereby ensuring that they are not released into the community. In addition CAP Units also seek to acquire final orders of removal, and in some cases, travel documents prior to release from imprisonment in order to expedite the removal of the aliens from the United States.

The identification and processing of incarcerated criminal aliens, prior to release from jails and prisons, decreases or eliminates the time spent in ICE custody, reducing the overall cost to the Federal Government. Additionally, integral to the effective execution of this program is the aggressive prosecution of criminal offenders identified by DRO officers during the course of their duties. DRO, in conjunction with the United States Attorney's Office, actively pursues criminal prosecutions when offenses of the nation's criminal code and immigration laws are discovered. This further ensures public safety and provides a significant deterrent to recidivism.

**Officer Notes:**

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### 3. Atlanta CAP Overview

ATL DRO officially assumed responsibility for CAP on June 1, 2007. The Atlanta Field Office's CAP Units cover one of the largest Areas of Responsibility (AOR) in the United States. The AOR includes three (3) states: Georgia, North Carolina and South Carolina. Within in the AOR there are 9 federal prisons, 3 state prison systems and 305 counties that are covered by the CAP Units. Additionally, the Atlanta Field Office has CAP officers assigned, full-time, to two (2) large Metropolitan Atlanta jails; Gwinnett County and DeKalb County. CAP Units also respond to referrals from probation and parole offices throughout the AOR and routinely receive non-egregious criminal alien referrals from Citizenship and Immigration Services (CIS). Lastly, the Atlanta Field Office currently has more operational 287(g) programs than any other field office in the United States. There are eleven (11) county jails with operational 287(g) programs in GA, NC and SC and additional requests are pending at various stages of the process.

The majority of the CAP personnel are assigned to specific duties such as screening cases originating from federal, state or local facilities but due to staffing issues some personnel may be assigned to cover all types of cases, including probation and parole cases. CAP personnel are also assigned to perform oversight duties at various local 287(g) programs in the AOR. At this time the Atlanta Field Office has CAP personnel assigned to the following offices:

**GA**

Atlanta  
Savannah

**NC**

Charlotte  
Raleigh

**SC**

Charleston

In FY 2009, the Atlanta Field Office will establish a CAP presence in Wilmington, NC, Columbia, SC and Greer, SC.

In 2007, HQ DRO, with assistance from each field office, developed a CAP Risk Assessment that ranked each AOR's federal, state and local prisons and jails. The Risk Assessment involved the collection of data from each facility including the number of foreign-born inmates, number of weekly releases, population densities, security levels and the type of coverage provided by DRO. Each facility in the AOR was ranked and scored as a Level I, II, III or IV facility with Level I representing the highest risk/threat level. The number one ranked facility in the Atlanta AOR is McRae CI, a BOP facility that serves as a criminal alien release site.

The Risk Assessment is a tool that is used by HQ DRO and the local field offices to measure the level of risk criminal aliens present to communities, to assist field offices in targeting specific facilities and deploying CAP resources and to allocate additional CAP resources. In keeping with HQ DRO mandates, the Atlanta Field Office currently screens/covers 100% of all Level I and Level II facilities. Each field office is required to continue working on increasing the number of Level III and Level IV facilities covered and currently the Atlanta Field Office is screening all Level III and IV referred to our office. As CAP resources are added, the Atlanta Field Office will be able to provide even more coverage to additional locations, which will enhance our ability to respond to law enforcement referrals.



## Federal Prisons

There are nine (9) federal prisons in the AOR:

### GA

USP Atlanta  
McRae CI  
Jesup FCI

### SC

Williamsburg FCI  
Bennettsville FCI  
Edgefield FCI  
Estill FCI

### NC

Butner FCC  
Rivers CI

The Chicago DEPORT Center is responsible for interviewing and processing federal inmates at all of the federal prison sites, except Butner Medical (Butner Medical is managed by the CAP Unit in Raleigh, NC). The DEPORT Center obtains information on incarcerated aliens from BOP and their database, SENTRY. The LESC and the DEPORT Center conduct records checks and then processes aliens through ENFORCE. Interviews are conducted with some aliens telephonically or via video teleconferencing but not others. On cases where the alien is not interviewed the DEPORT Center processes the alien based on records checks only.

Atlanta Field Office CAP Units receive release lists or release notification letters from BOP two-four months in advance of release dates. CAP officers screen the names on the list and search ENFORCE to determine if the alien has been processed by Chicago DEPORT.

While the DEPORT Center may be responsible for processing these aliens, the assigned Atlanta CAP officers are responsible for ensuring that all foreign-born inmates have been screened, the aliens have been processed correctly, the case is legally sufficient, the file has been secured, the alien has been served and pro-active steps have been taken to acquire a travel document (TD) prior to release. The acquisition of TDs prior to release enables the Federal Government to save on detention and associated costs and expedites the removal of the alien from the United States.

If the alien has been processed the CAP officer researches the file location and orders the file. Once the file has been received the officer prints the charging documents from ENFORCE, the conviction documents from PACER, if available, and sworn statements from JABS, if available. If conviction documents are not available in PACER, the officer will obtain a certified copy from the prison or the court. If the sworn statement is not available in JABS, the officer will obtain a sworn statement when he serves the alien.

If the alien has been processed correctly, the officer will place all required documents and serve the alien. If possible the alien should be served while he or she is still incarcerated so that steps can be taken to obtain travel documents prior to release. During the service of the documents at the prison, the officer will obtain fingerprints, which will be scanned

into IDENT. Additionally, if photographs are needed for the file or for a travel document, the officer will obtain digital photographs of the alien.

If the alien was not processed correctly the officer will print the I-213 that was produced by the DEPORT Center, scan the I-213 and send it to the Assistant Field Office Director

(AFOD) for CAP with a brief statement explaining the issues. The CAP AFOD will review the issues and, if necessary, contact the AFOD overseeing the DEPROT Center to discuss issues and find solutions to prevent reoccurrences. The officer will then retrieve the A-file, re-process the alien and serve the alien prior to release. In addition the officer will obtain fingerprints and photographs, as necessary.

There may be times when CAP officers discover an alien was not processed by the DEPORT Center and if the alien is not scheduled for release within the next month, the case should be referred to the DEPORT Center with a request that the case be processed. If the alien is scheduled to be released within the next month, Atlanta CAP officers should process the case.

Once files have been completed, they will be NFTS'd and routed to the Prison Drawer until the alien is released to ICE DRO.

NOTE: CAP officers are not to create a new event number in ENFORCE when a case in the system is amended or re-processed but they should note that ATL CAP had to re-process the alien on the I-213.

## State Facilities

The states of GA, NC and SC have large prisons systems that release hundreds of criminal aliens to DRO each year. Each state advises the ATL Field Office of incoming foreign-born inmates on a regular basis. This is accomplished through e-mail, faxes, mail and web-sites. Each state also has designated diagnostic/intake centers, where all foreign-born inmates are processed into the prison system. The foreign-born inmates are detained at the diagnostic/intake centers for a few weeks and this affords ICE DRO an opportunity to conduct record checks, lodge detainers and complete interviews before the alien is transferred to another prison within the system. Lastly, each state also has an Institutional Removal Program (IRP) whereby immigration judges conduct hearings at designated prisons or by utilizing video conferencing systems.

Officers assigned to state prison duties must ensure that all foreign-born inmates are screened for removability and take appropriate action to ensure that each removable alien is interviewed, processed and served. If possible the alien should be served while he or she is still incarcerated so that steps can be taken to obtain travel documents (TDs) prior to release. The acquisition of TDs prior to release enables the Federal Government to save on detention and associated costs and expedites the removal of the alien from the United States. During the service of the documents at the prison, the officer will obtain fingerprints, which will be scanned into IDENT. Additionally, if photographs are needed for the file or for a travel document, the officer will obtain digital photographs of the alien.

Officers assigned to state prison duties may also be assigned duties associated with the Rapid REPAT Program in each state. REPAT stands for Removal of Eligible Parolees for Transfer. This program, within ICE ACCESS, provides for the early conditional parole of aliens to ICE for deportation only. The program is targeted towards state non-violent

offenders and requires the following of the aliens who are identified, by the state, as eligible for the program:

- Aliens must waive appeal rights to state conviction(s) and a removal order
- Aliens must agree to cooperate in their removal proceedings, including signing Stipulated Agreements, and in acquiring travel documents
- If the alien reenters the United States after removal, state parole procedures and/or state statutes provide for the revocation of parole and confinement for the remainder of the sentence

A program very similar to Rapid REPAT has been in existence in GA for the past 13 years and is estimated to have saved the state over \$165 million dollars. Recently a modified MOU was drafted between ICE and the State of GA reaffirming our partnership. Current procedures will be amended soon and additional procedures concerning the acquisition of TDs will be implemented.

The North Carolina General Assembly passed legislation to implement Rapid REPAT in the state and the Governor has signed the legislation into law. The MOU is being drafted and procedures are being finalized.

South Carolina officials are currently reviewing a draft MOU and determining how they can implement the program in the state. Legislation is not needed since the parole service already has the authority to parole inmates after they serve a minimum sentence.



## 4. CAP Teams

CAP Teams are generally overseen by (b)(7)e Assistant Field Office Directors (AFODs) and are comprised of (b)(7)e

(b)(7)e  
(b)(7)e. Currently the Atlanta Field Office has (b)(7)e CAP Teams. (b)(7)e additional CAP Teams were awarded to the field office for FY 2008 and those personnel are expected to enter on duty shortly

Please note that CAP Teams may be deployed as a unit or divided among different locations in the AOR in order to provide adequate coverage and accomplish the mission(s). In addition to the dedicated CAP Teams, other IEAs and DOs may be assigned to CAP Units on a full-time or part-time basis in order to provide the necessary level of coverage in the AOR. Such assignments significantly contribute to CAP's ability to meet or exceed our goals and provide an opportunity for officers to receive "hands on" training in identifying, apprehending, processing and removing criminal aliens.

### Officer Notes:

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## 5. 287(g)

287(g) refers to the section of the Immigration and Nationality Act (INA) that authorizes qualified state and local officers to enforce immigration laws after an agreement between ICE and the state, or political subdivision, is signed and the state or local officers are certified as having completed a training program.

It is very important to note that 287(g) (3) requires that while state and local officers are performing any immigration law enforcement functions, they are subject to the “direction and supervision” of ICE. SDDOs, DOs and experienced IEAs may be assigned to provide oversight, guidance and supervision to 287(g) officers.

It is imperative that officers assigned to provide oversight duties at 287(g) sites are experienced CAP officers and they must work closely with local officers and agencies to ensure that all laws, regulations, policies and procedures are followed. Duties include but are not limited to; Providing guidance on processing criminal aliens, Reviewing charging documents, other required documents and supporting evidence for legal sufficiency and accuracy, Monitoring and managing the cases that are taken into ICE custody at the facility, Ensuring that all A-Files are timely routed to the SDDO for review and signature, Coordinating transfers with Detention/Custody Management and ensuring that the agency provides the field office with required statistical information on a timely basis. Any issues or concerns encountered at the facility must be reported through the chain of command so that they can be properly addressed by management.

Each approved 287(g) program must enter into a Memorandum of Understanding (MOU), which specifies the roles and responsibilities of each agency and requires the establishment of a steering committee, which meets periodically to discuss the program and address issues. Assigned officers may obtain a copy of the MOU from their supervisors.

Currently the Atlanta Field Office has 11 approved county jail 287(g) programs in GA, NC and SC. The operating 287(g) programs are:

<u>GA</u>	<u>NC</u>	<u>SC</u>
Cobb County	Mecklenburg County	York County
Hall County	Alamance County	
Whitfield County	Gaston County	
	Cabarrus County	
	Henderson County	
	Wake County	
	Cumberland County	

Officers may receive inquiries from law enforcement agencies interested in 287(g) or other ICE ACCESS programs during the course of conducting their assigned duties. If an officer receives such an inquiry he or she should obtain the contact information of the person inquiring and forward the information to their supervisor. The Atlanta management team will then contact the facility to discuss issues and programs.

## 6. Immigration Enforcement Agents and Deportation Officers



The responsibilities of Immigration Enforcement Agents (IEAs) and Deportation Officers include all enforcement functions related to the investigation, identification, apprehension, processing, prosecution, detention and removal of aliens who have violated the immigration laws of the United States. In addition, you will perform duties associated with the physical removal of aliens from the United States, including escorting aliens to their country of citizenship. Specific duties will be provided to each officer in his or her annual Performance Work Plan (PWP) and each officer will be provided an annual performance appraisal based on the performance of the components contained in the PWP.

All personnel are responsible for ensuring that all ICE detainees are treated in a safe, secure and humane manner. IEAs may be assigned to duties associated with Detention/Custody Management and these duties will include assuring detainees' care (physical, mental and civil rights) and counseling (personal and family matters). Additionally such duties may also include participating in and supervising the transportation of ICE detainees.

DOs will provide guidance to IEAs, lead prosecutions and may be assigned to perform oversight duties at local and/or state facilities that have been approved for the 287(g) Program when a SDDO is unavailable to provide full-time oversight duties. In addition, DOs will work to acquire final orders of removal and travel documents for state and federal foreign-born inmates prior to their release to ICE DRO in order to expedite the removal of aliens from the United States.

Additionally, IEAs and DOs may be assigned to perform duties involving the arrest and processing of alien absconders (fugitives), aliens that are not authorized to be in or work in the United States and other enforcement duties.

Working environments range from federal office buildings, a variety of correctional facilities and field work.

Core operating hours range from [redacted] (b)(7)e

[redacted] (b)(7)e (please consult your first-line supervisor about assigned shifts). Often times the amount of work to be completed can not be accomplished in a standard 8-hour workday and therefore CAP and other assigned duties can be performed after hours on Automatic Uncontrollable Overtime (AUO). Additionally, if special assignments or work needs to be completed, your first-line supervisor may assign you to work 45 Act Overtime. Overtime assignments must be made in advance of the administrative workweek. If assignments are made after the beginning of the administrative workweek, the assignment(s) will be performed on AUO. If you have any questions concerning shifts, AUO or 45 Act Overtime, please contact your first-line supervisor.

**Statistical Reporting**

***CAP PROCESSING STATS-***

Although ENFORCE captures statistics, HQ DRO has mandated that manual statistics are still required to be submitted to HQ each week. Each officer is required to track their daily production via an electronic spreadsheet and provide that information to the designated DRA each Monday morning by 0900 hours. Officers may print the spreadsheet and enter data by hand or enter it electronically. CAP and 287(g) officers should see their ICE DRO first-line supervisors to acquire a copy of the stats spreadsheet.

The designated DRA will consolidate the statistical data and submit it to the SDDOs and CAP AFOD(s). The AFOD or designated SDDO will forward the CAP Manual Report to the "CAPREPORT" mailbox each Monday by 1200 hours.

***PROSECUTION STATS-***

All cases presented for prosecution must be entered and followed-up on in TECS (see "Prosecutions" section in the Operational Guide). In addition, an ATL prosecutions spreadsheet has been created and distributed to the SDDOs. The spreadsheet must be updated each week and forwarded to the CAP AFOD(s) each Wednesday by 1200 hours.

**Officer Notes:**

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## 7. Powers of Immigration Law Enforcement Officers & Employees

It is imperative that each IEA and DO be familiar with the powers and authorities prescribed to them. Most of the powers and authorities of an immigration officer are found in sections 235 and 287 of the Immigration and Nationality Act (as amended). Section 235 prescribes the authority to conduct inspections of arriving aliens (applicants for admission) and issues related to the inspection of such aliens. While all IEAs and DOs should be familiar with section 235 and other applicable sections of the Immigration and Nationality Act (INA), most of the authority and powers utilized by IEAs and DOs assigned to the CAP Unit will derive from section 287 of the Act. The powers and authorities under section 287 are listed below:

Immigration and Nationality Act, (as amended), Section 287-

- (a) Powers without warrant. Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without warrant-
  - (1) to interrogate, any alien or person believed to be an alien as to his right to be or to remain in the United States;
  - (2) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, expulsion, or removal of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States;
  - (3) within a reasonable distance from any external boundary of the United States, to board and search for aliens, any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle, and within a distance of twenty-five miles from any such external boundary to have access to private lands, but not dwellings, for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States;
  - (4) to make arrests for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, expulsion, or removal of aliens, if he has reason to believe that the person so arrested is guilty of such felony and if there is likelihood of the person escaping before a warrant can be obtained for his arrest, but the person arrested shall be taken without unnecessary delay before the nearest available officer empowered to commit the persons charged with offenses against the laws of the United States; and
  - (5) to make arrests-
    - (A) for any offense against the United States, if the offense is committed in the officer's or employee's presence, or



(B) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such felony, if the officer or employee is performing duties relating to the enforcement of the immigration laws at the time of the arrest and if there is a likelihood of the person escaping before a warrant can be obtained for his arrest. Under regulations prescribed by the Attorney General, an officer or employee of the Service may carry a firearm and may execute and serve order, warrant, subpoena, summons, or other process issued under the authority of the United States. The authority to make arrests under paragraph (5)(B) shall only be effective on and after the date on which the Attorney General publishes final regulations which (i) prescribe the categories of officers and employees of the Service who may use force (including deadly force) and the circumstances under which such force may be used, (ii) establish standards with respect to enforcement activities of the Service, (iii) require that any officer or employee of the Service is not authorized to make arrests under paragraph (5)(B) unless the officer or employee has received certification as having completed a training program which covers such arrests and standards described in clause ((ii), and (iv) establish an expedited, internal review process for violations of such standards, which process is consistent with standard agency procedure regarding confidentiality of matters related to internal investigations.

- (b) Administration of oath; taking of evidence. Any officer or employee of the Service designated by the Attorney General, whether individually or as one of a class, shall have power and authority to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States, or concerning any matter which is material or relevant to the enforcement of this Act and administration of the Service; and any person to whom such oath has been administered (or who has executed an unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code), under the provisions of this Act, who shall knowingly or willfully give false evidence or swear (or subscribe under penalty of perjury as permitted under section 1746 of title 28, United States Code) to any false statement concerning any matter referred to in this subsection shall be guilty of perjury and shall be punished as provided by section 1621, title 18, United States Code.
- (c) Search without warrant. Any officer or employee of the Service authorized and designated under regulations prescribed by the Attorney General, whether individually or as one of a class, shall have the power to conduct a search, without warrant, of the person, and of the personal effects in the possession of any person seeking admission to the United States, concerning whom such officer or employee may have reasonable cause to suspect that grounds exist for denial of

admission to the United States under this Act which would be disclosed by such search.

- (d) Detainer of aliens for violation of controlled substances laws. In the case of an alien who is arrested by a Federal, State or local law enforcement official for an violation of any law relating to controlled substances, if the official (or another official)-
  - (1) has reason to believe that the alien may not have been lawfully admitted to the United States or otherwise is not lawfully present in the United States,
  - (2) expeditiously informs an appropriate officer or employee of the Service authorized and designated by the Attorney General of the arrest and of facts concerning the status of the alien, and
  - (3) requests the Service to determine promptly whether or not to issue a detainer to detain the alien, the officer or employee of the Service shall promptly determine whether or not to issue a detainer. If such a detainer is issued and the alien is not otherwise detained by Federal, State or local officials, the Attorney General shall effectively and expeditiously take custody of the alien.
- (e) Restriction on warrantless entry in case of outdoor agriculture operations. Notwithstanding any other provision of this section other than paragraph (3) of subsection (a), an officer or employee of the Service may not enter without the consent of the owner (or agent thereof) or a properly executed search warrant into the premises of a farm or other outdoor agricultural operation for the purpose of interrogating a person believed to be or to remain in the United States.
- (f) Fingerprinting and photographing of certain aliens
  - (1) Under regulations of the Attorney General, the Commissioner shall provide for the fingerprinting and photographing of each alien 14 years of age or older against whom a proceeding is commenced under section 240.
  - (2) Such fingerprints and photographs shall be made available to Federal, State and local law enforcement agencies, upon request
- (g)-Applies to performance of immigration officer functions by State and local officers and employees (Please review if you are assigned to a 287(g) site).
- (h)-Protecting abused juveniles. AN alien described in section 101(a)(27)(J) of the Immigration and nationality Act who has been battered, abused, neglected, or abandoned, shall not be compelled to contact the alleged abuser (or family member of the alleged abuser) at any stage of applying for special immigrant juvenile status, including after a request for consent of the Secretary of Homeland Security under section 101(a)(27)(J)(iii)(I) of such Act.

Please contact your supervisor if you have any questions concerning the powers of an immigration officers.

## 8. Sources of Information

Section 290(b) of the INA provides, “Any information in any records kept by any department or agency of the Government as to the identity and location of aliens in the United States shall be made available to the Service upon request made by the Attorney General to the head of any such department or agency.” If you have any questions concerning the acquisition of obtaining records from another federal agency, please contact your supervisor.

When requesting and/or collecting information, regardless of the source, you must be aware of the provisions of the Freedom of Information Act (FOIA) under 5 U.S.C. 552 and the Privacy Act under section 5 U.S.C. 552a as they relate to the proper dissemination and disclosure of information.

### Constitution of the United States of America

### The Immigration and Nationality Act (INA)

While all agents and officers should be familiar with and refer to INA to research issues, below are the sections most commonly used by immigration law enforcement officers:

Section 101(a)-Definitions  
Section 211-Admission of immigrants into the United States  
Section 212-Inadmissible Aliens  
Section 214-Admission of nonimmigrants  
Section 217-Visa Waiver program for certain visitors  
Section 219-Designation of foreign terrorist organizations  
Section 234-Designation of ports of entry for aliens arriving by aircraft  
Section 235-Inspection by immigration officer; expedited removal  
Section 236-Apprehension and detention of aliens  
Section 236A-Mandatory detention of suspected terrorists  
Section 237-Deportable aliens  
Section 238-Expedited removal of aliens convicted of aggravated felonies  
Section 239-Initiation of removal proceedings  
Section 240-Removal proceedings  
Section 241-Detention and removal of aliens ordered removed  
Section 244-Temporary Protected Status  
Section 251-Alien Crewmen  
Section 254-Control of alien crewmen  
Section 274-Bringing in and harboring certain aliens  
Section 274A-Unlawful employment of aliens  
Section 274C-Penalties for document fraud  
Section 274D-Civil penalties for failure to depart  
Section 275-Improper entry by alien  
Section 276-Reentry of removed aliens  
Section 278-Importation of alien for immoral purposes

Section 287-Powers of immigration officers and employees  
Section 291-Burden of proof upon alien  
Section 292-Right to counsel

Title 8, Code of Federal Regulations (CFR), Aliens and Nationality

8 CFR, Section 299.5 contains numbers and names of the immigration forms and reports that immigration law enforcement officers will use performing their assigned duties. 8 CFR, Section 499.1 contains numbers and names of the nationality forms and reports.

Title 18, CFR, Crimes and Criminal Procedure

Title 8, USC, Aliens and Nationality (General Penalty Provisions)

Central Index System (CIS)

CIS is a centralized, computer-based information system that serves as the heart of ICE, CBP and Citizenship and Immigration Services mission support, both in areas of service benefits and law enforcement. The Central Index contains data on lawful permanent residents, naturalized citizens, violators of immigration laws, aliens with Employment Authorization Document (EAD) information, and others for whom the Service has opened alien files or in whom it has a special interest. CIS provides several major capabilities, including searching the alien database by multiple criteria and displaying summary level data on the alien. The major search keys are "A number" and name. Variations of the Name Search are provided by allowing a direct search using Exact Name or a Sounds-like (Soundex) search using a similar sounding name or an alias name. In addition, the Name Searches allow other identifying information as secondary search criteria such as: Date of Birth, Country of Birth, and Files Control Office; Date of Birth is the most often used secondary search criterion.

Computer Linked Application Information Management System (CLAIMS)

CLAIMS is an application processing system that provides information concerning the receipt, adjudication, and notification processes for applicants and petitioners of CIS benefits, such as Employment Authorization Documents, Permanent Residency, etc. The current CLAIMS implementation combines several systems that support these processing requirements. This system also provides information on the current status of a pending application of the aforementioned CIS benefits.

Immigration Enforcement and Other Databases/Web-Sites

There are several databases that officers can access to obtain required information. Each alien encountered must be queried through immigration databases to determine the alien's immigration status and history, if any. Results of the record checks conducted should be listed on the I-213, Record of Deportable/Inadmissible Alien, printed and placed on the right-side of the file.

Below is a list of the databases most used by immigration law enforcement officers:

ENFORCE, IDENT, EARM, EADM, TECS, BOP SENTRY, BOP Inmate Locator, NFTS, SEVIS, JABS, LEO, PACER, State Sex Offender Registration web-sites, State prison inmate locators and web-sites and local/county jail web-sites

#### Alien Files (A-Files)

Aliens that have previously been encountered by legacy INS, ICE, CIS or CBP will have an Alien Registration Number and an Alien File (A-File) that contains information related to the alien's immigration status and history. An exception may exist for aliens encountered by the Border Patrol and the alien voluntarily returned to Mexico). The A-File contains information related to previous encounters, prior criminal history, admissions, entries, petitions, applications, denial of benefits/admission, immigration court proceedings, removals, biographical information, identity documents and related information/documents concerning the individual.

#### Memorandums and Directives from DHS, ICE, DRO and the Atlanta Field Office

Periodically DHS, ICE, DRO or the Atlanta Field Office will distribute memorandums and directives concerning DRO operation, policies and procedures. These memorandums and directives will be distributed to all personnel, as necessary, and must be followed. Most often, such documents are distributed via e-mail and it is suggested that officers create archives where the documents can be saved and referenced, as necessary. Applicable memorandums and directives are too numerous to include in this Operational Guide but first-line supervisors will provide all necessary documents to CAP and 287(g) officers.

#### Law Enforcement Support Center (LESC)

The purpose of the Law Enforcement Support Center (LESC) is to provide timely information on aliens suspected of criminal activity and status information of aliens under arrest or investigation. Federal, state and local law enforcement agencies (LEAs) utilize the state NLETS system to send Immigration Alien Queries (IAQs) to the LESL. Once the record checks are complete, the LESL sends the LEAs an Immigration Alien Response (IAR). The information provided by the LESL is utilized by thousands of law enforcement agencies and correctional departments.

In addition to conducting identification and immigration status checks on aliens arrested or under investigation in the United States, the LESL also maintains custody of files on ICE fugitives and previously deported felons. Under current LESL protocols, if the LESL identifies an ICE fugitive or previously deported felon, they are supposed to lodge an I-247, Immigration Detainer-Notice of Action, with the law enforcement agency, contact the local DRO office having jurisdiction over the present location of the alien and forward the file to the corresponding DRO office.

The LESC operates on a 24 hour, seven day a week basis. The LESC is located in South Burlington, Vermont (ORI: (b)(6), (b)(7)c, Phone: 802-652-(b)(6), (b)(7) FAX: 802-652-2024). Because of the sensitive nature of the information to be provided by the LESC, only agencies authorized to request criminal record information over NLETS will be authorized to access the LESC. NLETS will reject messages from ORI's that have not been authorized. The LESC will conduct record checks for ICE agents/officers in the field but the officer must inform the LESC with his/her Personal Identification Number (PIN) that is on file with the LESC. You (b)(7)e

(b)(7)e Please see your supervisor if there any questions concerning this matter.

### Forensic Document Laboratory (FDL)

The FDL was established to provide scientific examination and comparison of document evidence developed during investigations of fraud or other violations of the Immigration and Nationality Act. The FDL is capable of analyzing evidence relating to the examination and comparison of handwriting, handprinting, typewriting, printed materials and processes, stamp impressions, alterations, eradications, obliterations, basic ink and paper considerations and counterfeits. Referrals to the FDL should be made utilizing Form G-1021 by hand or electronically

### Other Federal Agencies

Customs and Border Protection (CBP), Citizenship and Immigration Services (CIS), Department of State [Passports, Visas, Security], Bureau of Alcohol, Tobacco and Firearms (ATF), Internal Revenue Service (IRS), Secret Service, Central Intelligence Agency (CIA), Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), United States Marshals Service (USMS), Bureau of Prisons (BOP), Interpol, United States Postal Service (USPS), Social Security Administration (SSA), Department of Labor

### State Agencies

State Police, State Probation and Parole Departments, Motor Vehicle Division, Health Department's Bureau of Vital Records and Statistics, Labor Department, State Income Tax Division, State Employment Agency

### Local Agencies

Local police departments and jails, County sheriff's offices and jails, Probation Departments, County District Attorney's Offices, County courts and license bureaus

## 9. Case Leads / Referrals

When DRO assumed responsibility for CAP in June 2007, a letter explaining the transition of the program was sent to each sheriff in the AOR. Enclosed with the letter was a copy of the LESC Manual and the LEAs were encouraged to conduct IAQs on foreign-born inmates and to send the results along with any other referral information to the CAP Duty Desk in Atlanta for review and distribution. The LEAs were provided with contact numbers for CAP's Duty Desk, duty fax, Sector Communications, the LESC, the CAP SDDO and AFOD. Since the transition, ATL DRO management officials have met with numerous LEAs to discuss CAP, ICE ACCESS, 287(g) and SECURE Communities. The meetings laid the foundation for establishing professional partnerships and have led to an increase in the number of referrals from local LEAs throughout the AOR.

ATL CAP has made progress in how leads/referrals are received including a successful program whereby all of the IARs produced by the LESC for the State of NC are automatically routed to our Charlotte DRO office where they are screened for appropriate follow-up action. ATL DRO management will be pursuing similar set-ups in GA and SC so that all of the CAP Units can receive IARs automatically. Once the agreements are finalized and equipment installed, ATL DRO CAP management will reach out to local LEAs and request that they include the name of their agency and the pending criminal charge on each IAQ. These fields are currently optional but having this information included will enable the CAP Units to quickly review IARs and prioritize cases for responses.

With the exception of NC, the majority of the CAP referrals are received by phone, fax, duty desk, duty fax, duty cell phones, Sector Communications and the LESC. Officers are strongly encouraged to promote and establish professional partnerships with the LEAs in their assigned areas and each is required to respond to referrals they receive along with cases assigned by their supervisors. Questions from LEAs about 287(g), Interoperability or other ICE ACCESS programs should be reported to your supervisor so proper feedback can be provided.

**Officer Notes:**

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## 10. Duty Officer & Duty Supervisor Responsibilities

CAP Units must be responsive to law enforcement agencies 24 hours a day, 7 days a week. The CAP Duty Desk is located in the Atlanta Field Office and receives calls and faxes from law enforcement agencies across the entire Area of Responsibility (AOR). CAP IEAs and DOs are assigned Duty Officer responsibilities on a rotational basis for one (1) week at a time. DOs and IEAs assigned oversight responsibilities at 287(g) locations may be excused from Duty Officer assignments IF there are insufficient resources to over the facility.

CAP also assigns SDDOs as Duty Supervisors on a rotational basis, when possible, and they are available to provide the Duty Officers with guidance and assistance.

Below are the responsibilities for the Duty Officers and Duty Supervisors:

### Duty Officer

- The Duty Officer schedule will be created and distributed to all CAP personnel one month in advance
- The Duty Officer assignment will begin at (b)(7)e each Monday morning and will last one (1) week (If a holiday occurs on a Monday, the present Duty Officer will continue to be the Duty Officer until the next day, Tuesday, at (b)(7)e)
- The Duty Officer must be at Duty Desk from (b)(7)e (calls may be forwarded to office desk), Monday through Friday of the duty week
- The Duty Officer will take and record all duty calls and faxes received during their assignments using the electronic Duty Log located on the ATL Share Drive (Atlanta) or as provided by the supervisor (NC and SC)
- The Duty Officer must have the duty cell phone forwarded to their cell phone at the beginning of their assigned duty week and must check to ensure the call forwarding feature is properly working
- The Duty Officer must answer after hour calls received and return all missed calls
- After hours calls must be entered into the Duty Log the next morning
- Duty Officers will claim AUO for after hours calls in .25 hour increments
- Duty calls concerning cases in NC or SC will be referred to the Duty Officers in NC and SC for follow-up
- Duty Officers are to expected to take information, conduct record checks and follow-up on all cases received
- Duty Officers are expected to lodge an I-247, Immigration Detainer-Notice of Action, on all removable aliens unless otherwise directed by a supervisor



- Law Enforcement agencies should acknowledge receipt of the detainer by signing the bottom and faxing a copy back to the Duty Desk
- A-numbers from empty jackets should be used for all cases that do not have an existing A-number.
- In order to prevent the release of a criminal alien after hours, it may be necessary to issue a detainer without an A-number. If this is done, an A# must be assigned to the case the following morning and the detainer must be generated in ENFORCE. The Duty Officer will then resend the detainer to the facility
- A copy of each detainer will be provided to the Duty Supervisor for assignment
- Desk and advise that officer's supervisor, if necessary, of the assignment
- All checks [redacted (b)(7)e] should be completed either by the officer or LESC before placing detainees
- Each officer is responsible for knowing when he or she is the duty officer
- The Duty Supervisor must approve any and all swaps before any changes occur

**Duty Supervisor**

- The Duty Supervisor assignments will rotate among all of the SDDOs assigned to CAP and will be created and distributed to all CAP personnel one month in advance (in conjunction with the Duty Officer Schedule)
- Duty Supervisors will ensure that Sector Communications has a copy of the Duty Officer and Duty Supervisor schedules & the SDDO's contact numbers
- Duty Supervisors will assign other CAP officers to work cases received by the Duty Officer unless the case originates from the Duty Officers assigned area
- Duty Supervisors will maintain a call-out wheel to utilize when CAP officers are required to respond after hours

**Contact Numbers**

Atlanta CAP Duty Desk.....	404-893-	[redacted (b)(6), (b)(7)c]
Atlanta CAP Duty Fax .....	404-893-	
GA CAP Duty Cell Phone.....	404-925-	
NC CAP Duty Cell Phone.....	404-925-	
SC CAP Duty Cell Phone.....	404-925-	
Sector Communications.....	1-800-973	
LESC.....	802-872-	

# 11. Advice of Rights

## Administrative Proceedings

An alien's advice of rights should occur after an officer has determined there is sufficient information necessary (usually after the I-213 has been completed) to initiate formal administrative proceedings. The advice should occur when a decision is made to issue a charging document or a Warrant of Arrest (I-200) is served on the alien.

If an alien is facing only administrative charges, the Miranda Warning should NOT be given. Doing so tends to confuse the alien and notifies them that they have a right to an attorney, at government expense, which is not correct. All aliens will be advised of their rights, in writing, using Form I-826, Notice of Rights and Request for Disposition. This form is required for all cases issued charging documents, regardless of the type of removal proceedings. In addition, an I-200, Warrant of Arrest, and I-286, Notification to Alien of Conditions of Release or Detention must be served on all aliens apprehended by ICE.

Additionally, under section 292 of the INA aliens in any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he/she shall choose. It should be noted that while this section of law specifies aliens under proceedings before an immigration judge have this privilege/right, this right also attaches to all other types of removal proceedings. We can not deny anyone a right to counsel but the Government will not provide (pay) for such representation.

All aliens apprehended by ICE and issued charging documents must be provided with a list of the pro-bono (free) legal service providers practicing before the Executive Office of Immigration Review (EOIR). The EOIR in Atlanta and the Office of Chief Counsel has requested that DRO indicate the list was provided on page 2 of the Notice to Appear (NTA), Form I-862, in the service section. This should be written in.

## Consulate Notification

8 CFR-Section 236.1(e) specifies that, "Every detained alien shall be notified that he or she may communicate with the consular or diplomatic officers of the country of his or her nationality in the United States. Existing treaties with the following countries require immediate communication with appropriate consular or diplomatic officers whenever nationals of the following countries are detained in removal proceedings, whether or not requested by the alien and even if the alien requests that no communication be undertaken in his or her behalf. [REDACTED]

(b)(7)e

[REDACTED]  
(b)(7)e

The notification to the consulate or diplomatic officers must be completed by fax, with confirmation of receipt, and documented using the designated fax coversheet and “Arrest or Detained Foreign Nationals” worksheet. The worksheet, coversheet and confirmation receipt must be placed on the right-hand side of the file. The “Arrest or Detained Foreign Nationals” worksheet can also be used to notify Non-Mandatory consular or diplomatic officials upon request of the detained alien. Please contact your first-line supervisor for the fax coversheet and consulate notification worksheet. Below is a list of countries that require mandatory notification:

Algeria (Within 72 hours)

Antigua and Barbuda

Armenia

Azerbaijan

Bahamas

Barbados

Belarus

Belize

Brunei

Bulgaria

China (Not mandatory if person carries a passport issued by Taiwan. Persons should be informed without delay that the nearest office of Taipei Economic and Cultural

Representatives Office can be notified at their request)

Costa Rica

Cyprus

Czech Republic

Dominica

Fiji

Gambia

Georgia

Ghana

Grenada

Guyana

Hong Kong (Notify China officials)

Hungary

Jamaica

Kazakhstan

Kiribati

Kuwait

Kyrgyzstan

Malaysia

Malta

Mauritius

Moldova

Mongolia

Nigeria

Philippines

Poland (Not mandatory for Polish citizens admitted for permanent residency in the U.S.  
Notification should only be provided upon request of the person detained)

Romania

Russian Federation

St. Kitts and Nevis

St. Lucia

St. Vincent/Grenadines

Seychelles

Sierra Leone

Singapore

Slovak Republic

Tajikistan

Tanzania

Tonga

Trinidad and Tobago

Tunisia

Turkmenistan

Tuvalu

Ukraine

United Kingdom (England, Scotland, Wales, Northern Ireland and Islands and the British dependencies of Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos Islands)

U.S.S.R. (All USSR successor states are covered by this agreement; Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan)

Uzbekistan

Zambia

Zimbabwe

### Criminal Proceedings

Anytime an officer contemplates the initiation of criminal proceedings against a person, he/she must provide that person their Miranda warnings **BEFORE** questioning. This requirement attaches once the officer realizes that criminal prosecution is a possibility, regardless of whether the United States Attorney's Office has accepted the case or not. The notification and waiver, if applicable, of the Miranda Warnings/Rights must be documented, in writing, utilizing Form I-214, Warning as to Rights Interview Log and placed on the right-hand side of the A-File.

If an alien requests an attorney ALL questioning must cease immediately. If an alien refuses to answer questions, questioning should cease. Do not compel an alien to answer questions when criminal proceedings are being contemplated. The alien may later decide to answer questions and if this occurs the processing officer must document the alien freely and voluntarily waived his or her Miranda Rights.

Refusal to Answer Questions

If an alien refuses to answer questions, the officer must ensure that he/she has enough evidence to support alienage, status, or lack thereof, and removability in order to move forward with administrative or criminal proceedings. Evidence may include information or statements provided to the processing officer, other federal, state or local law enforcement agencies, biometric evidence, information or negative results from various databases and any other evidence related to the identity, immigration status and removability of the alien. An officer should continue to process the case for removal utilizing the evidence available and should contact his/her supervisor if they have any questions concerning the case.

Refusal to Sign Documents

Once an officer has established that an alien is subject to removal from the United States, the alien may refuse to sign required rights, warnings and/or charging documents. In such instances the officer should continue serving the alien, signing the documents in the appropriate sections. The officer should write, "Refused to sign" in each section that calls for the alien's signature. In such instances, the officer must exercise caution and ensure that proper checks are marked on each form. For instance, an alien that refuses to sign an I-851, Notice of Intent to Issue a Final Administrative Removal Order, can not be considered to have waived the 14-day period execution of the final order and therefore the officer has to ensure that the proper block is marked and DRO must ensure that the alien is not removed prior to the expiration of the 14-day period after the I-851A, Final Administrative Removal Order, is signed. Additionally, aliens that refuse to sign documents can not be granted Voluntary Return, issued a Stipulated Removal Order or any other voluntary program or action.

**Officer Notes:**

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## 12. Detainers

Once an officer receives, or is assigned, a case originating from a federal, state or local prison/jail, the officer must conduct record checks, if not previously conducted, and interview the alien, either in person, telephonically or via video teleconferencing (VTC) to determine whether the person is, 1) an alien and, 2) subject to removal from the United States. If the subject is an alien amenable to removal from the United States, the officer should complete a Form I-247, Immigration Detainer-Notice of Action, and file it with the detention facility.

Immigration detainers are governed by Section 287.7 of 8 CFR and they serve to advise federal, state and local law enforcement agencies that the Department seeks custody of an alien presently in the custody of that agency, for the purpose of arresting and removing the alien. The detainer is a request that the agency advise the Department, prior to release of the alien, in order for the Department to arrange to assume custody, in situations when gaining immediate physical custody is either premature, impracticable or impossible.

Immigration detainers provide that the federal, state or local law enforcement agency hold the alien, on the detainer, for a period not to exceed 48 hours, excluding weekends and holidays. It is important to note that an immigration detainer does not prevent an alien from posting bond on the federal, state or local charge. The detainer prevents release after the posting of a bond, sentence completion or other case adjudication. The 48 hour period begins once the agency contacts ICE by either phone, duty phone, fax or e-mail and arrangements must be made with Detention/Custody Management to schedule the pick-up timely utilizing Form G-391 (Attachment 3).

- a. ALL detainers must contain an A number and must be generated in ENFORCE (see “Duty Officer & Duty Supervisor Responsibilities” section)
- b. ALL detainers must contain the printed name of the officer so that others can read it
- c. ALL detainers must contain correct telephone and/or cell phone numbers for the officer, the office fax number AND a back-up number for a designated DRA or SDDO so that the facility will be able to contact someone else in our office in case the responsible officer is out of the office.
- d. Detainers are lodged against REMOVABLE aliens. Prior to lodging a detainer, officers must ensure that the person is an alien and subject to removal from the United States. Supporting evidence must be placed into the A-File or Work Folder, if the A-File is unavailable.
- e. Detainers should not be lodged against Lawful Permanent Residents (LPR) unless the alien has a prior conviction that renders them amenable to removal from the United States. If a LPR is not removable but is charged with a removable offense, the officer should contact the District Attorney’s Office, provide his/her contact information and request that a note be added to the computer record or file indicating that ICE DRO be

contacted if the alien is convicted so that CAP officers can follow-up on the case and take appropriate action.

Once the detainer is lodged, the case should be fully processed in ENFORCE, if possible, and the file routed to the supervisor for review and signature and then routed to the Prison Drawer. If for some reason the alien can not be fully processed, the officer will begin the processing in ENFORCE and the case can be completed once required documents are obtained or the alien is released to ICE DRO custody.

ALL aliens must be enrolled in IDENT and assigned a FINS number. If there are no IDENT systems at the jail [i.e. 287(g)], the alien will have to be enrolled in IDENT upon arrival at the DRO office or the first ICE detention location [i.e. McRae releases arriving at Stewart Detention Center].

Decisions concerning the cancellation of detainers or decisions not to lodge detainers on aliens due to humanitarian, medical or other justifiable reasons must be reviewed and authorized by first-line supervisors and, if necessary, others within the chain of command. The I-247 will be used to cancel detainers also by completing the appropriate blocks on the form.

NOTE: ICE's Office of Investigations (OI) also lodges detainers with detention facilities and the United States Marshals Service (USMS). Cases opened and started by OI should be completed by OI. DRO does not lodge detainers "for" OI and OI should not lodge detainers "for" DRO. OI has been advised that if they receive a lead or referral on a CAP case they should contact DRO supervisors. The DRO supervisors will then assign the case to CAP officers for follow-up, including the lodging of a detainer in the case.

If an officer or supervisor receives a call about a case that OI initiated, the officer should immediately obtain all relevant information and advise the agency that someone will get back with them. The officer should immediately contact his or her supervisor and the supervisor will contact OI about the case and advise the agency that the matter has been referred to OI (provide OI's contact information).

If the agency advises that the alien is about to be released, DRO officers should cite the 48 hour period specified on the I-247 and advise them that someone from ICE will contact them soon to arrange pick-up of the alien.

If it is discovered that ICE, OI or DRO, was previously contacted and proper follow-up was not conducted, DRO officers are required to take immediate action to apprehend and process the alien so that the criminal alien is not released into the community. The officer will immediately notify his or her supervisor and the matter can be addressed with OI and DRO personnel through the chain of command. The bottom line is we will not allow a criminal alien to be released into the community regardless of the origination of the case.

## 13. G-391s

When an alien is ready to be released to a detainer lodged by DRO, the facility should contact the DRO officer or DRA listed on the detainer. Agencies may notify DRO by phone, duty phone, fax or e-mail and as specified under the “Detainers” section of the Operational Guide, federal regulations specify that ICE has 48 hours, excluding weekends and holidays, to arrange pick-up of the alien.

Once an officer or DRA receives the notification, he or she must take immediate action to initiate the pick-up of the alien from the facility. The following steps must be taken, without delay, to initiate the pick-up:

- a. The officer or DRA obtains the A number and name of the alien, the agency contact information and the name of the officer listed on the detainer
- b. The officer or DRA checks NFTS to determine the location of the A-File and retrieves the file (if the A-File or Work Folder is not located the officer or DRA must notify the officer listed on the detainer and refer the case to him or her for follow-up)
- c. The officer or DRA reviews the file to ensure that alienage has been established, legal sufficiency for detention exists and if the case has been processed. If there are any issues concerning these requirements a supervisor must be notified immediately to rectify the issue.
- d. Once the officer or DRA has established that alienage has been established and legal sufficiency for detention exists, he or she will complete and sign a G-391
- e. The officer or DRA indicates whether the alien must be brought to the office for processing or if the alien has already been processed and served. If the alien has been processed and served the alien may be transported to an approved detention facility as designated by Detention/Custody Management.
- f. If the alien has to be brought into the office for processing and serving, CAP supervisors will ensure that CAP officers fully process and serve the aliens upon arrival at the office. On rare occasions when immediate processing is not possible, the aliens may be held in custody and processed the following day but under no circumstances are aliens to be held longer than 48 hours without being processed and served charging documents and custody notifications.
- g. The officer or DRA will NFTS the A-File to Detention/Custody Management and hand-deliver the file or Work Folder and two (2) copies to the designated Supervisory Immigration Enforcement Agent (SIEA)
- h. The officer or DRA will have the SIEA sign or initial one (1) copy of the G-391 at the bottom of the form and retain that copy for filing
- i. The officer or DRA will then file CAP’s copy of the G-391 in case there are any questions concerning the pick-up or notification to Detention/Custody Management

Detention/Custody Management is responsible for contacting the agency and coordinating the pick-up of the alien. On occasion, Detention/Custody Management may not have the resources to conduct a pick-up and request assistance. CAP supervisors will



work with Detention/Custody Management supervisors to accomplish pick-ups in a safe and secure manner.

Detention/Custody Management will determine where aliens are detained based upon available detention space and other logistical and operational factors.

Detention/Management will be responsible for routing A-Files and Work Folders to the appropriate Detained Docket in the AOR.

**Officer Notes:**

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## 14. A-Files & Work Folders

If an existing A-File is discovered for an alien encountered by CAP, the officer should query NFTS to determine the location of the file. If the file is located in another field office or other location, the officer must create a Work Folder and continue processing the alien. The officer must then request the original A-File.

In an effort to reduce detention costs and speed the removal of the alien, each officer and/or DRA should ensure that they not only request the file through NFTS but also personally contact the location that has the file and request it. It is much quicker to track down a phone number or e-mail address and call to have the file sent, rather than just requesting the file via NFTS as a transfer through Records.

Once the original A-File is received, the file should be thoroughly reviewed and the officer should ensure that all documents are filed in chronological order with the newest information/documents on top. The documents from the Work Folder must be placed in the original file and if the alien is not in ICE DRO custody, the file should be routed and placed in the CAP Prison Drawer.

If there is not an existing A-File on an alien encountered, a new file (empty jacket) should be retrieved and used to document the new encounter. Empty jacket files are obtained from Citizenship and Immigration Services (CIS) by designated coordinators and may be obtained from your supervisor or designated individual. ATL DRO must keep all files secure, track the location of files, including empty jackets, and record the distribution of empty jackets. Once a new A-File has been committed for use in ENFORCE the A number and required biographical information must be forwarded to CIS for file creation and verification. ATL DRO utilizes a File Creation Sheet for this purpose. This form must be completed and forwarded to the designated DRAs or supervisors and they will forward the creation sheets to CIS electronically. CIS has stated that they create and verify files within 72 hours.

Due to the delay in creating and verifying A-Files, the Atlanta Field Office has initiated a process to ensure that GA files can be tracked and keep the removal process moving forward. Each time an uncreated A-File (empty jacket) is handled and moved a Case Comment should be entered into EARM or the Detention Comment in EADM stating: "Received A-File on (date) from (location) and "Sent to (location) on (date). Please note that Case Comments can not be entered into EARM until the case is created in EARM (12 hours after the file is added in EADM) OR until the alien is booked into ICE DRO detention via EADM.

In addition, since sometimes an A-File must be forwarded before Case Comments can be entered, the officer who initially handles the empty jacket must place the 'Manual A-File Tracking Sheet for "Uncreated" A-Files' sheet to the outside of the A-file for the next person to see. This sheet will be updated as the file moves forward and will serve to remind the individual holding the file to continue to attempt to update NFTS and

Case/Detention Comments. Please contact your supervisor for copies of the File Creation Sheet and the ‘Manual A-File Tracking Sheet for “Uncreated” A-Files’ sheet.

Cases originating in NC or SC will follow established CIS and ICE DRO procedures to have empty jackets created and verified. Please contact your first-line supervisor for further guidance on these procedures.

All A-File movements must be recorded in NFTS, no exceptions. Work Folders can not be tracked in NFTS since they have not been created in the system but officers should note where work folders are sent so that proper follow-up can be conducted, if necessary.

Under no circumstances are aliens to be taken into ICE DRO custody without, at a minimum, a Work Folder that includes documented evidence of the alien’s immigration status and removability.

“RUSH” tags are critical and must be stapled to each detained case that CAP produces so that ICE DRO personnel and contractors can readily identify detained cases at a glance and expedite the routing of the file to designated location.

Criminal aliens are detained at various approved detention locations in the AOR. Cases originating from NC and SC will be temporarily detained in NC or SC and regularly transferred to detention centers in GA or AL. Work Folders and A-Files must be sent to the corresponding DRO office in advance or with the criminal aliens at the time they are transported. CAP Work Folders and A-Files originating in GA will be routed to the Detained Docket DOs in Atlanta or at the Stewart Detention Center. Processing officers and supervisors can confirm detention locations with Detention and EADM.

On occasion, officers may encounter an alien that has been assigned two (2) A-Files. Both A-Files must be requested. Once the A-files are received the officer must determine which file is primary and which is secondary. As a general rule, the A-File that was created first is normally the primary file however exceptions may exist if an alien was granted a benefit under the number that was created second. Questions concerning the designation of the primary file may be directed to your supervisor and Citizenship and Immigrations Services (CIS). All information and documents from the secondary file must be removed and placed, chronologically, in the primary file. CIS must be notified of the consolidation so that electronic records can be updated. CIS may request both files in order to verify the information and complete the consolidation process.

**Officer Notes:**

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# 15. Order of A-Files

It is important to have A-File documents in the correct order. Below is a guide for placing documents into A-files. Please remember that all documents should be placed in A-Files chronologically with the newest material on top. If you receive a file that is not arranged chronologically you should correct it. In general, immigration charging documents, petitions and applications are to be placed on the left and related correspondence and other documents are to be placed on the right.

## **LEFT SIDE**

*Original signatures of the authorized person w/authority must be included.*

### **I-862s, NTAs**

I-862 Notice to Appear  
(1 Signed Original & 2 copies)  
I-200 Warrant of Arrest (1)  
I-286 Notice of Custody Determination (1)

### **Certified Copies**

(1 certified original and 2 copies of each)  
Judgment & Commitment/Sentence

### **Optional Documents that may be needed**

Indictment & Information  
Complaint  
Plea Bargain Agreement or  
Parole Paper Work  
Police Report(s)  
Appeal Application(s)/Decision(s)

## **RIGHT SIDE**

I-213 Record of Deportable/Inadmissible Alien  
(1 Signed Original & 2 Copies)  
I-247, Immigration Detainer  
Consulate Notification Form (If required under section 236(e))  
I-217 Information for Travel Document  
I-265 Notice to Appear, Bond and Custody Processing Sheet (Signed original)  
I-94 Arrival-Departure Record  
I-214 Warning as to Rights-Interview Log  
I-826 Notice of Rights  
Orantes Advisal for El Salvadorans  
List of Free Legal Services  
Prosecutions generated paperwork, if applicable  
All Record/IDENT/ENFORCE/NCIC Checks  
G-166 Report of Investigation/Sworn Statements  
I-43 Baggage and Personal Effects of Detained Alien, if applicable  
Pictures (2-web based, digital or Polaroid)  
Fingerprint Cards (2-filled out)

**All seized documents will be placed in plastic holders or property envelopes and placed in the back of the right-side of the A-File.**

Passports, Cedula, Driver Licenses, SS Cards

## **LEFT SIDE**

*Original signatures of the authorized person w/authority must be included.*

### ***I-851s, Admin Removals***

Record of Proceedings Cover Sheet  
Signed Certification  
I-851A Final Administrative Removal Order  
(1 original & 1 copy)  
I-851 Notice of Intent to Issue a Final Notice and Decision (1 original & 1 copy)  
Sworn Statement\*  
I-200 Warrant of Arrest (1)  
I-286 Notice of Custody Determination (1)

### **Certified Copies**

Judgment & Commitment/Sentence  
Indictment & Information  
Complaint  
Plea Bargain Agreement or  
Parole Paper Work  
Police Report(s)  
Appeal Application(s)/Decision(s)

\*If alien refuses to give sworn statement indicate it, ask the fear of returning question, document it and then proceed with issuing the I-851.

## **RIGHT SIDE**

I-213 Record of Deportable/Inadmissible Alien (1 Signed Original) & (2 Copies)  
Consulate Notification Form (If required under section 236(e))  
I-247 Detainer  
Prosecutions generated paperwork  
I-217 Information for Travel Document  
I-265 Notice to Appear, Bond and Custody Processing Sheet (Signed original)  
I-94 Arrival-Departure Record  
I-214 Warning as to Rights-Interview Log  
I-826 Notice of Rights  
Orantes Advisal for El Salvadorans  
List of Free Legal Services, served  
All Record/IDENT/ENFORCE/NCIC Checks  
G-166 Report of Investigation/Sworn Statements  
I-43 Baggage and Personal Effects of Detained Alien  
Pictures (2-Web based, digital or Polaroid)  
Fingerprint Cards (2-filled out)

**All seized documents will be placed in plastic holders or property envelopes and placed in the back of the right-side of the A-File.**

Passports, Cedulas, Driver Licenses, SS Cards

## **LEFT SIDE**

*Original signatures of the authorized person w/authority must be included.*

### ***I-871s***

Record of Proceedings Cover Sheet  
Signed Certification  
I-871 Notice of Intent/Decision to Reinstatement  
Prior Order (1 original & 1 copy)  
Sworn Statement\*  
I-200 Warrant of Arrest (1)  
I-286 Notice of Custody Determination (1)

### **FAXED COPIES OR ORIGINALS (Packet)**

(DRO paperwork needed for reinstatements)  
Last Removal Order (IJ, I-851, I-871, I-860)  
(1)  
Prior I-205, Warrant of Removal/Deportation (1)  
Prior I-213 (if available) (1)

Note: Make sure that on Sworn Statement:

Ask when, where and how they left.

Port:

Date:

Manner:

Country of Destination:

\*If alien refuses to give sworn statement indicate it on the document but ask the fear of returning question, document it and then proceed with issuing the I-871.

## **RIGHT SIDE**

I-213 Record of Deportable/Inadmissible Alien (1 original & 2 Copies)  
Consulate Notification Form (If required under section 236(e))  
I-247 Detainer  
Prosecutions generated paperwork  
I-217 Information for Travel Document  
I-265 Notice to Appear, Bond and Custody Processing Sheet (Signed original)  
I-94 Arrival-Departure Record  
I-214 Warning as to Rights-Interview Log  
I-826 Notice of Rights (or)  
Orantes Advisal for El Salvador (or)  
List of Free Legal Services  
EOIR 33 (OR's only)  
EOIR Hearing Date Printout (OR's only)  
All Record/IDENT/ENFORCE/NCIC Checks  
G-166 Report of Investigation/Sworn Statements  
I-43 Baggage and Personal Effects of Detained Alien  
Pictures (2-Web based, digital or Polaroid)  
Fingerprint Cards (2-filled out)  
**All seized documents will be placed in plastic holders or property envelopes and placed in the back of the right-side of the A-File.**  
Passports, Cedula, Driver Licenses, SS Cards

**LEFT SIDE**

*Original signatures of the authorized person w/authority must be included.*

***I-860s***

I-860 Notice and Order of Expedited Removal (1 original & 2 copies)

I-296 Notice to Alien Ordered Removed/Departure Verified

(1 original and 2 copies)  
Sworn Statement

**RIGHT SIDE**

I-213 Record of Deportable/Inadmissible Alien (1 original & 2 Copies)

Consulate Notification Form (If required under section 236(e)-Do not mention any asylum claims or fear of returning to the country)

M-444 Credible Fear

I-275 Withdrawal of Application for Admission/Consular Notification

I-94 Arrival/Departure Record

I-247 (If transferred from another agency, prison, jail)

I-826 Notice of Rights

Orantes Advisal for El Salvadorans

I-770 for Juveniles (Original & 1 copy)

I-214 Warning as to Rights-Interview Log

List of Free Legal Services

All Record/IDENT/ENFORCE/NCIC Checks

I-43 Baggage and Personal Effects of Detained Alien

Pictures (2-Web based, digital or Polaroid)

Fingerprint Cards (2-filled out)

**All seized documents will be placed in plastic holders or property envelopes and placed in the back of the right-side of the A-File.**

Passports, Cedula, Driver Licenses, SS Cards

## 16. I-213, Record of Deportable/Inadmissable Alien

An I-213 must be completed on all aliens apprehended by ICE. The I-213 serves as the officer's arrest report and provides information concerning an alien's identification, physical description, address, employment, entry, passport, citizenship, apprehension location, family, removal charges and criminal history. An I-213 must be completed on each alien that is apprehended by ICE, including fugitives (brief I-213 with encounter required for fugitives).

Each I-213 completed on an initial arrest/encounter should include as much information as possible. Obtaining and recording the information on the I-213 will ensure that a thorough interview is conducted and will also assist other ICE agents/officers in identifying the alien if he/she is encountered on a later date.

The narrative block of the I-213 is the section where the agent/officer will provide the details of the case and justify the action/decisions taken. This section should clearly describe the who, what, when, where, why and how particulars for each case. Each I-213 should include the following in the narrative block (Use Form I-831, Continuation Page, if necessary):

FIN #-May have to enter by hand or after case processing if alien is presently in jail or prison

RECORD CHECKS- List all record checks completed in the case

ENCOUNTER-Describe when (date & time), where and how the alien was encountered, including pending criminal charges

ENTRY & IMMIGRATION STATUS & HISTORY-Entry, Immigration status, petitions, applications, etc.

CRIMINAL HISTORY-Include past locations and specifics for criminal arrests and dispositions for each apprehension, including legacy INS or ICE prosecutions

BASIS FOR REMOVAL/(REMOVAL CHARGE(S))-Include all sections of applicable immigration law, including section citations [i.e. "Subject appears amenable to removal under sec. 238(b) of the Act as an alien who was convicted of an aggravated felony, sec. 237(A)(2)(A)(iii), and defined under section 101(a)(43)(F) {Crime of Violence}. On (date) the Subject was convicted of Family Violence Battery in the State Court of Gwinnett County, GA and was sentenced to 1 year imprisonment, to serve 30 days, remainder suspended].

CUSTODY DETERMINATION-Specify custody recommendation supported by facts of the case and/or statute (mandatory detention, see 8 CFR, Section 236.1)

MEDICAL ISSUES-Include all claimed or known information about the alien's medical conditions. Officers should advise their first-line supervisors of all aliens that have or claim to have serious medical conditions including but not limited to cancer, total or partial paralysis, kidney disease (dialysis), coronary artery disease and other



serious/chronic conditions so that each case can be reviewed and appropriate custody determinations made. SDDOs will advise the chain of command, as necessary.

***Pregnant Aliens***-The Field Office Director (FOD) and Deputy Field Office Director (DFOD) **must** be notified **DIRECTLY** of all females who are or may be **pregnant**. Officers **must** send the notifications immediately to the FOD and DFOD and courtesy copy their supervisors and the AFOD. When sending the notification to the FOD and DFOD the officers must provide a case synopsis that includes the circumstances of the encounter, length of the pregnancy, whether the alien has a criminal record and/or history of violence and whether the alien is subject to mandatory detention. If a pregnant alien is not a criminal or a danger to the community, the FOD and/or DFOD will release the alien on Alternatives to Detention (ATD). Pregnant criminal aliens' cases will be reviewed on a case-by-case basis and custody determinations will be made based on such reviews.

**FAMILY ISSUES**-Include spouse information not previously recorded on the I-213 earlier, information on children and person having custody of minor children at the time of the interview, information on parents or other immediate family members. If the officer discovers that the alien being processed is a single parent and the alien's children are not being cared for, the officer must immediately notify the law enforcement agency having custody of the alien at that time and report the information for further investigation. In addition, the officer should notify his or her supervisor of all **single parents** AND **nursing mothers** being processed so proper custody determinations can be made on case-by case basis. The SDDO will advise the chain of command, as necessary.

**MILITARY SERVICE**-Include all claims of military service for any country. If the Subject claims service in the U.S. military, the processing officer must refer the case to the FOD, through the chain of command, for review and authorization to place the alien into removal proceedings.

**OTHER**-Enter any other applicable information pertaining to the case

**DISPOSITION**- Enter the disposition of the pending case [i.e. Subject processed and served From I-851 on (date). List of free legal service providers also served on Subject on (date)]

**Officer Notes:**

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## 17. Juveniles

Under the INA, a juvenile is a minor under the age 18 years old. Certain juveniles, especially violent offenders, are not considered juveniles if they were convicted as adults under the Flores vs. Reno decision.

When an officer encounters a juvenile he or she should obtain all relevant information and advise their supervisor and the Juvenile Coordinator as soon as possible. One of the key pieces of information that needs to be obtained is whether the alien is accompanied or unaccompanied. Accompanied juveniles are those that have immediate family members in the United States who are adults. Unaccompanied juveniles are those without immediate family members in the United States. The processing officer must forward a copy of the completed I-213 to the Juvenile Coordinator.

The supervisor will consult with the Juvenile Coordinator, Non-Detained SDDO and other management officials in the chain of command, if necessary, and provide guidance to the officer concerning the processing and custody determination relative to the case.

If the decision is made to assume custody of a juvenile, the Juvenile Coordinator must refer the case to the Office of Refugee Resettlement (ORR) for placement or, by working with the consulate, arrange for the return of the alien to his or her country.

The Atlanta Field Office Juvenile Coordinators and SDDO names and contact numbers are listed below. Please include all of them in e-mail notifications.

DO  (Primary), Office 404-893- Cell 404-925-

SIEA  (Secondary), Office 704-672- Cell 404-925-

SDDO  Office 404-893- Cell 404-925-

### Officer Notes:

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## 18. ENFORCE



### Processing Procedures Procedures of Aliens in the ENFORCE System and Other Procedures

There are two functions of the ENFORCE system:

1. To capture biographical and event information when a removable alien is encountered, and
2. To produce charging documents in removal proceedings.

The alien's status will often affect which series of processing screens is used in the ENFORCE system, which is why it is ***critical*** to know all pertinent factors about a removable alien before beginning from ENFORCE.

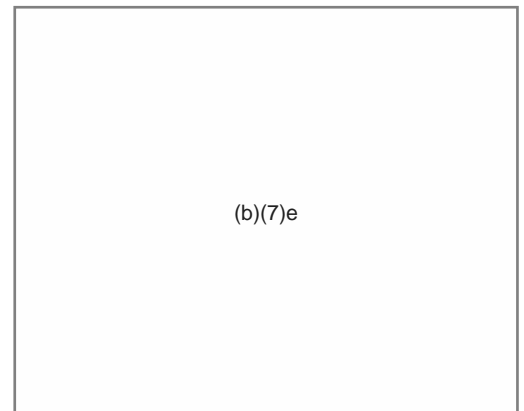
### Choosing Processing Series

The removable alien's status will determine the "flow" of screens used to process an alien. On the main ENFORCE screen the pull down menu will offer several "flows" for alien processing. The most commonly used will be "detained NTA" (Notice to Appear). Aliens subject to administrative removal or reinstatement of prior removal order will have a different series of processing screens. At the conclusion of processing, all aliens will be served a **Warrant of Arrest for Alien**, (I-200) and **Notice of Custody Determination**, (I-286), both which can be completed and printed from ENFORCE.

### Removal Proceedings

An alien is placed into removal proceedings by issuance of **Form I-862, Notice to Appear** (NTA), unless the alien is subject to Administrative Removal or Reinstatement of A prior removal order. The NTA flow in ENFORCE will normally be the most commonly used one for the duty agent. The NTA begins the process for an alien to see an Immigration Judge.

The duty agent will most often encounter aliens who have entered the United States without inspection (EWI) and aliens who have entered the United States legally but have violate their status. These are separate charges, which should be listed on the Notice to Appear. Another common set of charges, which will be listed on the Notice to Appear, will relate to an alien's criminal history. Convictions for theft, fraud, domestic violence, drug possession, violence, firearms possession, sex crimes and many others may add additional charges against the alien on the Notice to Appear.

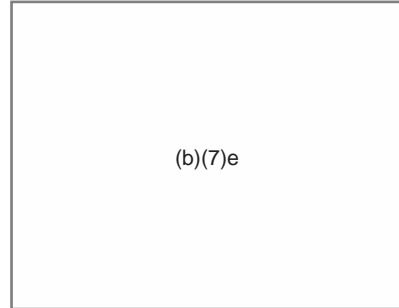


(b)(7)e

Aliens issued a Notice to Appear may also be eligible for bond. The minimum bond amount that can be set in the system is \$1,500.00. Amounts are set based on the likelihood to appear at the hearing and maybe set higher for criminal history, false statements made during interview, no fixed address, escape attempts, etc. (see “Bonds” section in the CAP Operational Guide)

## Administrative Removal

Aliens are subject to Administrative Removal under Section 238(b) of the Immigration and Nationality Act when they meet two criteria:



1. They are **NOT** lawful permanent residents or parolees,
2. They have been ***convicted*** of a crime, which meets the definition of an ***aggravated felony***. Administrative Removals are **issued Form I-851, Notice of Intent to issue a Final Administrative Removal Order**; the administrative removal flow” in ENFORCE will allow this form to be filled in, and printed when processing is complete. Administrative removals are **NOT** issued a Notice to Appear

## 19. I-851s & I-871s



**Regardless of the type of removal proceeding, the removal process involves four (4) phases:**

- a. Identification and Processing
- b. Case Preparation
- c. Administrative Proceedings and
- d. Removal

Depending on the immigration status of the criminal alien, the type of removal proceedings may be one of the following: Administrative Removal (I-851), Reinstatement of a Prior Removal Order (I-871), Notice to Appear (NTA, I-862), which involves a hearing or review by an immigration judge, Notice and Order of Expedited Removal (I-860), Visa Waiver Program Case, Crewmen or Stowaways.

The Atlanta Field Office protects the due process of aliens who are apprehended and processed for removal from the United States but also utilizes all of the removal proceedings authorized by law to remove aliens as expeditiously as possible.

It is the goal of CAP to server all aliens prior to or at the time they are taken into ICE custody. Due to logistical and operational issues this is not always possible. Each ICE law enforcement officer must understand that current policies mandate that ICE must complete and serve charging documents and associated documents (custody determination, consulate notice, etc.) within 48 hours of detention. If an alien is not served within that period of time an officer must immediately report the incident to his her supervisor.

ALL A-Files (charging documents and related documents) must be reviewed and signed by the officer's first-line supervisor, other available supervisor or others in the chain of command authorized to sign such documents. Under no circumstances should a case be forwarded to Detention or the Detained Docket until the file has been reviewed, approved and signed. If corrections need to be made the supervisor will return the file to the

processing officer or other officer if the processing officer is unavailable and the correction needs to be made immediately. The processing officer must make all corrections and return the file to the supervisor for review, approval and signature. It will be necessary to re-serve an alien a corrected or amended charging document if changes are made. The erroneous charging document reflecting original service on the alien should be retained as evidence that the alien was timely served but the supervisor should line through the document, diagonally, indicating that the document was cancelled and reissued. The supervisor must always sign and date all cancellations.

**Notice of Intent to Issue Final Administrative Removal Order (I-851):** Administrative removal proceedings allow for certain aliens to be ordered removed from the United States by designated Government officials without having their case adjudicated by an immigration judge. Section 238(b) of the Act authorizes the agency to place aliens convicted of aggravated felonies, as defined under section 101(a)(43), into administrative removal proceedings and such aliens are amenable to removal under section 237(a)(2)(A)(iii) of the Act. This section can be utilized for all types of aliens except aliens that have been Lawfully Admitted for Permanent Residence (LPRs) and aliens that were Paroled into the United States. All other aliens can and should be processed utilizing an I-851 if the alien has a final conviction for at least one (1) of the aggravated felony offenses defined under the Act. There is no statutory relief from removal for aggravated felons.

When processing an alien for under this type of proceeding, an official Record of Proceeding (ROP) and a ROP Coversheet (Attachment 5) must be created that contains a "Certification" signed by the Deciding Official, I-851, I-851A, certified Judgment and Commitment Document (J&C), Sworn Statement, I-213, I-200 and I-286.

Each of the following elements as well as the alien's identity must be established.

1. **Establish alienage.** An alien is any person who is not a citizen or national of the United States. In determining if a person is an alien, the ICE officer must consider place of birth, the nationality of the person's parents at birth, and/or subsequent naturalization by the person or his parents. Those items that would cause an individual to be an alien must be explored during questioning. If the facts indicate that the person is an alien, they must be documented in a Record of Deportable/Inadmissible Alien (Form I-213), Sworn Statement, and printouts of records checks. The time and date that the alien was questioned should be noted on the Form I-213 (see section on I-213s for additional information), and this evidence must be placed in the Record of Proceeding (ROP).
2. **Verifying immigration status** (not a LPR). In order to establish the alien's immigration status at the time the process begins, the alien must be interviewed and all pertinent ICE/immigration records systems should be checked. All evidence collected must be placed in the ROP. The Form I-213, Sworn Statement, record check printouts, i.e. (b)(7)e etc. systems, should be used as evidence that the alien is not a LPR and that the alien is one that is either unlawfully present (EWI or overstay) or an in-status nonimmigrant. Evidence of LPR status is available both on CIS and ICE automated record systems and hard copy A-files.

3. **Establishing conviction of an aggravated felony.** The certified record of conviction must be placed in the ROP. Electronic copies (faxes and e-mail copies) of conviction records are acceptable as long as the record was received directly from a court, court repository, a prison or other detention facility with jurisdiction to detain the Subject and the receiving officer certifies that the document was received directly, dates and signs the certification statement or stamp. The types of documentary evidence constituting proof of conviction in immigration proceedings include the following:
- a. A record of judgment and conviction;
  - b. A record of plea, verdict and sentence;
  - c. A docket entry from court records that indicates the existence of a conviction;
  - d. Minutes of a court proceeding or a transcript of a hearing that indicates the existence of a conviction;
  - e. An abstract of a record of conviction prepared by the court in which the conviction was entered, or by a state official associated with the state's repository of criminal justice records, that indicates the following: the charge or section of law violated, the disposition of the case, the existence and date of conviction, and the sentence; or
  - f. Any document or record prepared by, or under the direction of, the court in which the conviction was entered that indicates the existence of a conviction.
4. **Verifying identity.** When questioning the alien and checking records and documents to determine whether the case meets the criteria for administrative removal, special care must be taken to verify his/her identity. The processing officer is responsible for making absolutely certain that all information is completely consistent and there is no question whatsoever about the identity of the person or upon whom the Notice of Intent to Issue a Final Administrative Removal Order (I-851) will be served.



The law specifically requires a determination for the record that the individual upon whom the I-851 is served is, in fact, the alien named in the I-851. When the I-851 is served in person, the ICE officer serving the document verifies the identity of the person on whom it is served, and signs a statement to that effect in the Certificate of ICE on the I-851. The form must be served/explained in a language that the alien understands and this information must be verified on page 2 of the I-851.

The I-851 sets forth the preliminary determinations and informs the alien of ICE's intent to issue a Form I-851A, Final Administrative Removal Order, without a hearing before an immigration judge. The I-851 constitutes the charging document.



The I-851 shall include allegations of fact and conclusions of law. It shall advise the alien of the privilege of being represented, at no expense to the Government, by counsel of the alien's choosing, as long as counsel is authorized to practice removal proceedings; that the alien may request withholding of removal to a particular country if he/she fears persecution or torture in that country; they may inspect the evidence supporting the I-851; they may rebut the charges within 10 calendar days after ICE serves the I-851 (or 13 calendar days if the I-851 was by mail).

An I-247, Immigration Detainer, Notice of Action, should be served on the appropriate authorities at the correctional facility after the ICE officer verifies the identity and immigration status of a criminal alien amenable to removal.

*Review for legal sufficiency. The Office of Chief Counsel (OCC) is available to provide review and advice regarding all aspects of cases being processed under Section 238(b) of the Act. Cases must be reviewed for legal sufficiency in accordance with outstanding instructions. Please contact your supervisor concerning the legal sufficiency review by the OCC.*

5. **Executing final removal order of deciding ICE officer:** The authorized official that signed the I-851 can not also be the "Deciding Official" and therefore the same official can not sign the I-851A.

Upon the issuance of a Final Administrative Order, I-851A, ICE shall issue a Warrant of Removal, I-205, and Notice of Country to Which Deportation has been Directed and Penalty for Reentry, I-294, which will be executed no sooner than 14 calendar days after the date the Final Administrative Removal Order is issued/dated/signed, unless the alien knowingly, voluntarily, and in writing waives the 14-day period at the time of issuance of the I-851 or at any time thereafter. The alien is taken into custody under the authority of a Warrant of Arrest, I-200, issued by a deciding ICE Officer (i.e. Field Office Director, Deputy



Field Office Director, Assistant Field Office Director, Supervisory Detention & Deportation Officers).

Printing and completing the I-205 and I-294 will expedite the alien's removal from the United States. These documents must be placed on the left-hand side of the file on top of the ROP. This will permit the deciding officer to not only review and sign the I-851A but afterwards the same officer will be able to initial the I-205. In addition, on cases that do not require a travel document, CAP officers will print and complete the Atlanta Quality Assurance Checklist. Printing and completing this checklist does not take long and, again, doing so expedites the removal of the alien. Files falling into this category can be reviewed and provided directly to the Travel Unit in Atlanta or Stewart Detention Center so that removal can be scheduled. The processing officer or DRA must add EARM comments specifying that the file is complete, the alien is ready for removal and the A-File was sent directly to the Travel Unit. Remember to NFTS all files.

- 6. Determining applicability of withholding of removal.** While no statutory relief from removal is available in these proceedings, cases may arise in which removal to a particular country must be withheld under Article 3 of the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT). However, an alien sentenced to an aggregate term of imprisonment of at least five years for his aggravated felony conviction(s) is considered to have committed a particularly serious crime and statutorily ineligible for withholding of removal. In addition, Article 3 of the CAT prohibits an alien's removal to a country where he or she is more likely than not to be tortured. There are no exceptions to this prohibition. Therefore, an alien with an aggravated felony conviction(s) may be entitled to protection under Article 3, even if he or she has been sentenced to five or more years' imprisonment. Aliens may make a claim under CAT to the processing officer or assigned deportation officer.

If an alien served with an I-851 claims a fear of returning to his/her country, asylum or CAT the officer should ensure that the proper areas are marked on the page 2 of the I-851 and should then route the file to his/her supervisor for review and signature of the I-851A. Once the alien is in ICE DRO custody and the I-851A has been signed, I-205 and I-294 issued, the case should be referred to the Arlington Asylum Office (ZAR). Copies of the ROP and I-213 should be forwarded to ZAR. ZAR will schedule the Subject for a reasonable fear interview. The processing officer should clearly flag the file and update EARM to reflect the claim and referral to ZAR prior to forwarding the file to the Detained Docket officers.

Once ZAR conducts the interview, the Subject will be scheduled for an asylum, CAT, withholding hearing before the immigration judge. The immigration judge will only review the asylum, CAT and withholding issues involved in the case. The immigration judge does not have jurisdiction to review the I-851 or I-851A.

- 7. Determining applicability of a waiver under Section 212(h) of the Act.** An alien in administrative removal proceedings under section 238(b) of the INA is ineligible to apply for any discretionary relief. However, the Board of

Immigration Appeals held that an alien not previously admitted to the United States as a LPR is statutorily eligible to seek a section 212(h) waiver despite an aggravated felony conviction. Based on this decision, if an alien expresses his/her intention to seek a 212(h) waiver, the I-851 will be cancelled and a NTA will be issued instead. (see section on Hearings Before an Immigration Judge).

NOTE: Prior to routing the A-File stamp the outside of the file with the stamps, “Criminal Alien Do Not Send to FRC” and “AGG FELON”. The criminal alien stamp should be used on all files where an alien is a convicted criminal.

**Reinstatement of Final Orders (I-871):** Section 241(a)(5) of the Act provides that the Attorney General will reinstate (without referral to an immigration court) a final order against an alien who illegally reenters the United States after being deported, excluded, or removed from the United States under a final order. Before reinstating a prior order, the officer processing the case must determine:

1. That the alien believed to have reentered illegally was previously deported or removed from the United States. The processing officer must obtain the alien’s A-file or copies of the documents contained therein to verify that the alien was subject to a final order and that the previous order was executed.
2. That the alien believed to have reentered illegally is the same alien as the one previously removed. If, in questioning an alien, he or she admits to being previously deported or removed, the Form I-213 and the sworn statement must so indicate. If a record check or fingerprint hit reveals such prior adverse action, that information must be included in the A-File. The alien should be questioned and confronted with any relevant adverse information from the A-file, record check or fingerprint hit, and such information must be included in the I-213 and sworn statement, if applicable.

If the alien disputes the fact that he or she was previously removed, a

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3. That the alien did in fact illegally reenter the United States. In making this determination, the officer shall consider all relevant evidence, including statements made by the alien and any evidence in the alien's possession. The immigration officer shall attempt to verify an alien's claim, if any, that he or she was lawfully admitted, which shall include check of the immigration data systems.

In any case in which the officer is not able to satisfactorily establish the preceding facts, the previous order cannot be reinstated, and the alien must be processed for removal through other applicable proceedings, such as administrative removal under section 238(b) of the Act, or removal proceedings before an immigration judge under section 240 of the Act.

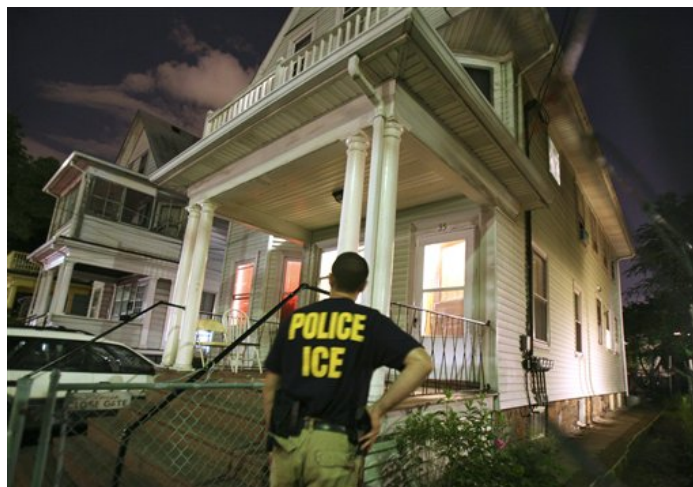
In all cases in which an order may be reinstated, the officer must create a record of sworn statement. The record of sworn statement will document admissions, if any, relevant to determining whether the alien is subject to reinstatement, and whether the alien expressed a fear of persecution or torture if returned on the reinstated order.

In addition to covering the normal elements (identity, alienage, and the required elements listed above), the sworn statement must include the following question and the alien's response thereto:

**“Do you have any fear of persecution or torture should you be removed from the United States?”**

If the alien refuses to provide a sworn statement, the record should so indicate. An alien's refusal to execute a sworn statement does not preclude ICE from reinstating a prior order, provided that the record and evidence establishes that all of the required elements discussed in the above paragraphs have been satisfied. If the alien refuses to give a sworn

statement, the processing officer must record whatever information the alien orally provided that relates to reinstatement of the order or to any claim of possible persecution.



When processing an alien for under this type of proceeding, an official Record of Proceeding (ROP) and a ROP Coversheet (Attachment 6) must be created that contains a “Certification” (Attachment 7) signed by the Deciding Official, I-871, evidence supporting the previous removal and removal order, sworn statement, I-213, I-200 and I-286.

Once the processing officer is satisfied that the alien has been clearly identified and is subject to the reinstatement provision (and the sworn statement has been taken), the officer shall prepare Form I-871, Notice of Intent/Decision to Reinstate Prior Order. The processing officer completes and signs the top portion of the form, provides a copy to the alien, and retains a copy for the file. The officer must read, or have read the notice to the alien in a language the alien understands. The alien signs the second box of the file copy and indicates whether or not he intends to rebut the officer’s determination. In the event that the alien declines to sign the form, the officer shall note the block that a copy of the form was provided, but that the alien declined to acknowledge receipt or provide any response. If the alien provides a response, the officer shall review the information provided and promptly determine whether reevaluation of the decision or further investigation is warranted. If no additional information is provided, the officer shall proceed with reinstatement based on the information available.

*Review for legal sufficiency. The Office of Chief Counsel (OCC) is available to provide review and advice regarding all aspects of cases being processed under Section 241(a)(5) of the Act. Cases must be reviewed for legal sufficiency in accordance with outstanding instructions.*

If, after considering the alien’s response the processing officer is satisfied that the alien’s prior order should be reinstated, the processing officer presents the Form I-871 and all relevant evidence to a deciding officer for review and signature at the bottom of the form. A deciding officer is any officer authorized to issue a Notice to Appear, (i.e. Field Office Director, Deputy Field Office Director, Assistant Field Office Director, Supervisory Detention & Deportation Officers).

Once the I-871 is ready for supervisory review and signature, the processing officer will print and complete a Warrant of Removal, I-205, and I-294, Notice of Country to Which Deportation has been Directed and Penalty for Reentry. The officer should indicate on the I-205, in the section reserved for provisions of law, that removal is pursuant to section 241(a)(5) of the Act as amended by the IIRIRA.

Printing and completing the I-205 and I-294 will expedite the alien’s removal from the United States. These documents must be placed on the left-hand side of the file on top of the ROP. This will permit the deciding officer to not only review and sign the I-871 but afterwards the same officer will be able to initial the I-205. In addition, on cases that do

not require a travel document, CAP officers will print and complete the Atlanta Quality Assurance Checklist (Attachment 8). Printing and completing this checklist does not take long and, again, doing so expedites the removal of the alien. Files falling into this category can be reviewed and provided directly to the Travel Unit in Atlanta or Stewart Detention Center so that removal can be scheduled. The processing officer or DRA must add EARM comments specifying that the file is complete, the alien is ready for removal and the A-File was sent directly to the Travel Unit. Remember to NFTS all files.

At the time of removal, the officer executing the reinstated final order must photograph the alien and obtain a classifiable rolled print of the alien's right index finger on the I-205. The alien and the officer taking the print must sign in the spaces provided. Once the final order has been executed, it must be attached to a copy of the previously executed documents, which establish the prior departure or removal. The officer executing the reinstated order must also serve the alien with the I-294. The penalty period commences on the date the reinstated order is executed. Since this is his or her second (or subsequent) removal, the alien is subject to the 20-year bar, unless the alien is also an aggravated felon, in which case the lifetime bar applies. The officer should route the I-205 and a copy of the I-294 to the A-file. A comparison of the photographs and fingerprints between the original I-205 and the second I-205 executed at the time of reinstatement may prove essential in the event the reinstatement order is questioned at a later date.



## 20. Removal Hearing Initiation

There are five circumstances whereby a removal hearing is initiated before the Office of Immigration Review (EOIR) under section 240 of the INA. To initiate a hearing before EOIR (an immigration judge), Form I-862, Notice to Appear (NTA), is either served on an alien in person or mailed if personal service is not practicable or possible.

1. Aliens who are unlawfully present without having been admitted by an immigration officer at a designated port of entry (entered without inspection, EWI) are removable under section 212 of the Act. Such aliens are entitled to a removal hearing before an immigration judge.
2. Aliens who were lawfully admitted to the United States as nonimmigrants but subsequently violated their nonimmigrant status, overstayed their authorized period of admission (overstays) or those found to have been inadmissible at the time of entry are issued NTAs and scheduled for a removal hearing before an immigration judge. If a nonimmigrant was convicted of an aggravated felony, he or she should be placed into removal proceedings under section 238(g) and issued Form I-851.
3. In general, all legal permanent residents are entitled to a removal hearing before an immigration judge and afforded an opportunity to present their case before the immigration court.
4. Aliens who were paroled into the United States may or may not be provided a hearing before an immigration judge. Once the reason for the alien's parole has expired, the alien's status reverts back to being that of an applicant for admission. The processing officer must determine if the alien is subject to Expedited Removal utilizing an I-860 (Only for removal charges of 212(a)(6)(C)(i)-Fraud and 212(a)(7)(A)(i)(I)-Immigrant without Documents) or if the alien must be issued a NTA. Another option that is exercised by some locations is to allow the alien to withdraw his or her application for admission under section 235(a)(4). The Atlanta Field Office does not normally permit a criminal alien to withdraw their application for admission. CAP officers should research the particular circumstances of each case and consult with their supervisor concerning the appropriate type of charging document to issue in such a case.
5. If a Deciding ICE Officer (Field Office Directors, Deputy Field Office Directors, Assistant Field Office Directors Supervisory Detention & Deportation Officers) finds that the record of proceeding, including the alien's timely rebuttal, raises a genuine issue of material fact regarding the preliminary findings of an alien who initially has been processed as an administrative removal, the deciding officer may issue a NTA to initiate removal proceeding under section 240 of the Act.



## 21. Notice to Appear

Form I-862, Notice to Appear (NTA) is the document the government completes and serves on an alien and EOIR, specifying the particular allegations against the alien and why he or she should be removed from the United States. The issuance of the NTA formally places the alien into immigration proceedings before EOIR.

The Atlanta Field Office utilizes NTAs when legally required. All aliens, except I-851s, I-871s, Visa Waivers and Stowaways have the right to a hearing before an Immigration Judge but historically it has been shown that many aliens will accept Stipulated Agreements (STIPS) and Voluntary Return (VR) when faced with a 1-3 month detention period before the initial hearing before EOIR is set. If an alien wants a hearing, then issue a NTA as appropriate.

The NTA is divided into two parts:

The first part which is labeled “**ALLEGATIONS**” has the alien’s name, the country they are from, and the date and manner they entered the United States. It also gives the factual basis or reason for an alien’s removal.

The second part is called “**CHARGES.**” It lists the sections of the law under which alien may be removed.

No hearing date may be scheduled earlier than ten days from the date the NTA (to allow sufficient time to obtain counsel and prepare for the hearing).

The NTA includes a waiver, which the alien may execute in order to obtain an earlier hearing date. This is located on the form I-862 under “Request for Prompt Hearing”.

Prior to serving the NTA to an alien, the following steps must be taken in each case referred to an immigration judge for a removal hearing:



1. Search for existing INS records in all immigration databases or other appropriate automated systems. If an A-file exists, create a temporary file. If a file does not exist, follow local district procedures for creating an A-file.
2. Complete Form I-213, Record of Deportable/Inadmissible Alien.
3. Complete Form I-826.
4. Complete applicable sections of Form I-214.
5. Provide photograph and fingerprints (2 sets) of the alien.
6. Review the A-file to ensure that necessary court records or other evidence required for the hearing are available.

*If the subject entered without inspection and was convicted of burglary, robbery, theft, or a crime of violence, with a sentence of less than a year a Notice to Appear (I-862) must be issued. If the sentence is over a year then a Notice of Intent to issue an Administrative Removal (I-851) should be issued*

Officer Notes:

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## 22. Stipulated Agreements

A Stipulated Agreement is a form that aliens VOLUNTARILY complete. The form is filed with a NTA and notifies the court that the alien has reviewed the allegations against them, agrees with the allegations and requests that the court enter a removal order, without a hearing, to the alien's county of citizenship.

The "STIP", as it is commonly referred to, has been reviewed and approved by the Office of Chief Counsel and the Executive Office of Immigration Review (EOIR) for use in the Atlanta AOR. The STIP can and should be offered in all NTA cases, except for those involving juveniles. An alien may be offered a STIP at the time of initial processing or he or she may request one at a later date after initially declining.

The correct version of the STIP package will be provided to officers by their supervisors and the STIPS must be properly filed with OCC and EOIR. If an alien accepts a STIP, he or she will be held without bond since they have agreed to accept a final order.

Please see your supervisor if you have further questions about STIPS.

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## 23. Voluntary Returns (Under Safeguards)

The Atlanta Field Office encourages the use of Voluntary Returns (VRs) for non-criminal Mexican, Honduran and Guatemalan nationals. Agents and Officers should consider offering VRs to subjects that do not have any serious criminal charges or history but are unlawfully present (EWIs). Some aliens may want information before deciding whether to take a VR and may ask how long they will be detained before they see a judge. Tell them the truth. In Atlanta it could several weeks to a few months (1-3) before an alien has an appearance before an Immigration Judge.

VR may not be the optional track to take in some cases. For instance an alien who has been returned on a prior VR(s) by DRO or the Border Patrol should not, normally, be offered another one. The Atlanta Field Office prefers to acquire a removal order in such instances but cases can be reviewed on a case-by-case basis and decisions made concerning the offer of VR. Please remember that all VRs are voluntary so don't force them. Aliens who accept VR are held in ICE custody, without bond, until they are returned to their country of citizenship.

Forms necessary for a VR are

I-213

I-826

I-94

I-200

FINS #.

Officer Notes:

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## 24. Stowaways

Section 235(a)(2) of the INA states, “An arriving alien who is a stowaway is not eligible to apply for admission or to be admitted and shall be ordered removed upon inspection by an immigration officer. Upon such inspection if the alien indicates an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview under subsection (b)(1)(B). A stowaway may apply for asylum only if the stowaway is found to have a credible fear of persecution under subsection (b)(1)(B). In no case may a stowaway be considered an applicant for admission or eligible for a hearing under section 240.

Section 235.1(f)(D)(4) states, “An alien stowaway is not an applicant for admission and may not be admitted to the United States. A stowaway shall be removed from the United States under section 235(a)(2) of the Act.”

## 25. Visa Waiver Program

Aliens from certain designated countries may be admitted to the United States under the Visa Waiver Program governed by section 217 of the Act. Aliens applying for admission under this section must have a round-trip ticket and be admissible to the United States. Such aliens are admitted as “WT” (tourists) or “WB” (business) nonimmigrants for period of 90 days and they are not eligible to extend their authorized period of admission or adjust their status.

8 CFR, section 217.4(a)(3)(d) specifies that an alien who is admitted under this section and is determined by an immigration officer to be deportable from the United States under one or more of the grounds of deportability listed in section 237 of the Act shall be removed to his or her country of nationality or last residence. The removal of the alien shall be determined by the Field Office Director who has jurisdiction over the place where the alien is found, and shall be affected without referral to an immigration judge, except for an alien that applies for asylum in the United States. Such alien must be issued Form I-863 for a proceeding in accordance with section 208.2(b)(1) and (2) of the Act.

A removal under section 217 is equivalent in all respects and has the same consequences as a removal after proceedings conducted under section 240 of the Act.

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## 26. Mandatory Detention

**Mandatory Detention** - The Immigration and Nationality Act and federal regulations state that the government must take into custody and hold an alien without bond if they have been convicted of certain removable offenses and released from jail after October 8, 1998. If they were convicted of a removable offense but not sentenced to jail (for example if they were sentenced to community service, probation, or a conditional discharge) they may still be eligible for bond. If an alien thinks that they are entitled to bond, they may indicate their desire for a bond redetermination hearing before EOIR on the I-286. In addition they may write to the immigration court and ask for a hearing where they can try to convince the judge that the mandatory detention law does not apply.

- **Grounds for Mandatory Detention of Lawful Permanent Residents in the United States, Persons Who Have Overstayed Their Visa, or Persons Who Have Been Lawfully Admitted into the United States-**

If a subject was classified as a lawful permanent resident, visa overstay or was otherwise admitted into the United States in some manner, they may be subject to mandatory detention if they were released from jail after October 8, 1998, and convicted of any of the following crimes:

- Two Crimes Involving Moral Turpitude (CIMT) at any time after admission in the United States;
- An aggravated felony;
- A controlled substance offense (see Lopez vs. Gonzales in appendix)
- A Firearms offense.



- **Grounds for Mandatory Detention for Lawful Permanent Residents Returning From a Trip Abroad, Persons Who Entered Without Inspection (EWI), or Persons Seeking Admission into the United States-**  
If a Lawful Permanent Resident (LPR) returns from a trip outside of the United States or enters without inspection or is seeking admission into the United States, the LPR may be subject to mandatory detention if he or she was released from jail after October 8, 1998, and convicted of any of the following crimes. (These

grounds are explained in more detail in the section entitled Grounds of Removability Based on Criminal Convictions):

- One CIMT (which may be waived as a petty offense if there is no prior criminal history, the offense was not punishable by more than one year in jail and they did not serve more than six months in jail);
- Controlled substance offense;
- Drug trafficking offense;
- Two or more offenses with aggregate sentence of 5 years incarceration;
- Prostitution;
- Domestic violence or violation of protection order.

Officer Notes:

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## 27. Bonds

The Atlanta Field Office has a bond policy that considers a subject's immigration status, criminal history, pending charges, immigration history, mandatory detention status, danger/risk to the community, community ties and available detention space. The minimum bond in the ATL Field Office is \$2000. This amount is normally set for very minor offense such as fishing w/o a license, sleeping in public parks, jay walking, and minor traffic violations. The Atlanta Field Office does not normally set bonds for aliens charged or convicted of DUI. These cases are normally processed, served and the aliens held without bond. Such an alien can request a bond redetermination hearing before EOIR if he or she wishes.

Other offenses carry a minimum bond of \$5000. Bonds can be adjusted upwards based on the particulars of each case. The I-213 must contain the justification for the bond amount. SDDOs will review all bond amounts and adjust them, if necessary. Bonds will obviously not be issued for any mandatory detention cases, VR cases, STIPS, I-851s, I-871s, Visa Waiver cases or Stowaway cases.

Bonds may be posted at the Atlanta Field Office located at 180 Spring Street, SW, Atlanta, GA 30303 or the Charlotte DRO Sub-Office located at 6130 Tyvola Centre Drive, Charlotte, NC 28217, Monday through Friday, from 9:00 a.m. to 3:00 p.m.

Officers are not authorized to release aliens on their own recognizance. Aliens must be either detained in custody, provided a bond amount or registered under Alternatives to Detention (ATD). Please contact your supervisor for additional information concerning these issues.

Officer Notes:

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## 28. Deportability vs. Inadmissibility



**DEPORTABILITY V. INADMISSIBILITY:** Under the Immigration and Nationality Act, non-citizens can be removed from the United States if they violate either the statutory grounds of “inadmissibility” or “deportability.”

### The “inadmissibility” grounds apply to people who

- (1) Make an initial application to enter the United States lawfully;
- (2) travel abroad as lawful permanent residents and get stopped by immigration on trying to reenter the country, or
- (3) are in the United States and make an application for legal status. The “deportability” grounds apply to people who have been legally admitted into the US as lawful permanent residents or visitors.

1. **CRIMINAL GROUNDS OF DEPORTABILITY:** An alien may be subject to removal on deportability grounds if they have been lawfully admitted into the United States and have been convicted of:
  - An aggravated felony;
  - A crime involving moral turpitude (CIMT) committed within five years of the date of admission and for which a sentence of one year or longer may be imposed;
  - Two CIMTs at any time after admission; A controlled substance offense (other than a single offense involving possession for one’s own use of thirty grams or less of marijuana);
  - Certain firearms offenses;
  - A crime of domestic violence (including violation of an order of protection).

There are also other grounds of deportability not listed above found in section 237 of the INA. Each of the grounds of deportability listed above is discussed further below.

## 29. Aggravated Felonies & Other Crimes

A conviction for an aggravated felony, or an attempt or a conspiracy to commit an act defined as an aggravated felony, has the most serious immigration consequences of any kind of conviction. An aggravated felony conviction will bar an alien from most forms of relief and will likely make an alien subject to mandatory detention and removal. The term “aggravated felony” as used here is an immigration term and has no connection to the definition of a felony in state criminal law. A crime can be considered an aggravated felony even if it is a misdemeanor under state penal law. Whether a felony conviction under state law is an aggravated felony depends upon whether the federal law treats the crime as a felony. Consequently, an alien may be able to challenge the government’s allegation that they were convicted of an aggravated felony if the state definition of the crime differs from the federal definition of the crime.



Many crimes become aggravated felonies if the sentence is for one year or more, even if the sentence is totally or partially suspended. Other crimes may be classified as aggravated felonies regardless of the sentence imposed.

### Types of aggravated felonies

- **Crimes of violence** for which the penalty imposed are at least one year (felony or misdemeanor). These are defined as (a) an offense that has as an element the use, attempted use or threatened use of physical force against a person or property of another, or (b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense;
- **Murder**
- **Drug Trafficking**
- **Theft or Burglary** for which the penalty imposed is imprisonment for at least one year (felony or misdemeanor). Theft and burglary have been defined by federal courts with reference to the federal definition of theft. It is sometimes possible to argue that a state offense does not fall within the generic definition of theft or burglary
- **Any Firearms Trafficking Offense** (*e.g.*, sale, distribution)
- **Failure to Appear for Service of Sentence** if the underlying offense is punishable for a term of five years, or more



- **A Conviction Related to Failure to Appear Before a Court on a Felony Charge** for which a sentence of two years of imprisonment or more may be imposed
- **Rape**
- **Sexual Abuse of a Minor** (felony or class A misdemeanor) - State sex offenses involving a minor are not “sexual abuse of a minor” if they do not contain the same elements as the federal offense of sexual abuse of a minor
- **Crime of Fraud or Deceit, in which the Loss to the Victim Exceeds \$10,000**  
An offense is not a “fraud or deceit” offense unless fraud or deceit is a necessary or proven element of the crime;
- **Prostitution Business** - crimes related to owning, controlling, managing or supervising a prostitution business;
- **Crime Related to Commercial Bribery, counterfeiting, forgery, or trafficking in cars with altered vehicle identification numbers (VIN), where the penalty imposed is imprisonment for one year or more (felony or misdemeanor);**
- **Crime Relating to Obstruction of Justice, Perjury or Subornation of Perjury, or Bribery of a Witness, where the penalty imposed is imprisonment for one year or more (felony or misdemeanor);**
- **Failure to Appear in Criminal Court for Felony Charge That Could Result in a Sentence of Two or More Years.**

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# Lopez v. Gonzales

## Drug Crimes considered to be an Aggravated Felony

### Aggravated felony drug trafficking under INA § 101(a)(43)(B) after Lopez v. Gonzales

The United States Supreme Court's decision in Lopez v. Gonzales changes what drug crimes may be considered aggravated felonies under INA § 101(a)(43)(B).

In short, the Supreme Court decided that for a drug crime to be an aggravated felony trafficking offense, it either has to be inherently a trafficking offense (e.g. possession with intent to distribute, manufacture, sell, etc.) or punishable as a felony under federal law, namely the Controlled Substances Act (CSA). The state classification of a drug offense as a misdemeanor or felony is irrelevant.

So, state and federal drug trafficking crimes (e.g. possession with intent to distribute, manufacture, etc) are still aggravated felonies.

State and federal simple possession crimes are NOT aggravated felonies with three explicit exceptions:

- 1) repeat possession offenses
- 2) possession of cocaine base ~~(crack)~~ Cocaine
- 3) possession of flunitrazepam

All three of these crimes at either the state or federal level would still be aggravated felonies because all three are felonies under the CSA.

There is also a possible exception for a state crime in which an alien was convicted of simple possession but possessed such a large amount of the drug that an intent to traffic could be inferred. The end of the Supreme Court's opinion suggests that this situation probably would not be an aggravated felony, but it did not make a definitive finding on the issue; and, other parts of the opinion actually support an opposite conclusion. So, such a crime could still be considered an aggravated felony because it is arguably more analogous to the federal crime of possession with intent (an aggravated felony) than it is to simple possession (not an aggravated felony). However, in order to argue that such a crime could still be considered an aggravated felony, the record of conviction would have to indicate how much of the drug was at issue or otherwise give some indication that the crime could be considered trafficking under the CSA.

Finally, note that the Supreme Court's ruling only affects whether a drug offense is an aggravated felony under INA § 101(a)(43)(B). It does not affect any charges of removability related to drugs under INA §§ 212(a)(2)(A)(i)(II), 212(a)(2)(C) or 237(a)(2)(B)(i).

## *Other Criminal Offenses*

**Crimes Involving Moral Turpitude (CIMT):** Defined as crimes which are “inherently base, vile, or depraved, and contrary to the accepted rules of morality and the duties owed between persons or to society in general.” In general, crimes of moral turpitude fall into the following categories: i) crimes in which intent to steal or defraud is an element; ii) crimes in which bodily harm is caused or threatened, by an intentional or willful act; iii) crimes in which serious bodily harm is caused or threatened by a reckless act; or iv) sex offenses. They include—but are not limited to—aggravated assault, sexual abuse (even if it did not involve a minor), kidnapping, arson, malicious destruction of property, criminal possession of stolen property, bribery, forgery, any crime involving either theft (such as robbery, burglary or larceny) or fraud (such as welfare fraud).

**Controlled Substances Offenses:** This category includes any conviction for sale of a controlled substance, possession of a controlled substance with intent to sell, or simple possession (only if in possession of cocaine base, flunitrazepam, or has repeat possession offenses, with the exception of a single conviction for possession of less than 30 grams of marijuana. Drug abuse or addiction (whether resulting in a criminal conviction or not) also renders a non-citizen removable. \*see Lopez vs. Gonzales



**Firearms:** As previously noted, any firearms trafficking offense is an aggravated felony, subjecting a non-citizen to mandatory removal. However, any conviction for mere possession of a firearm, including a Class A misdemeanor, renders a non-citizen removable. Note that this ground of removability refers to firearms and not weapons in general. In some instances, a challenge can be made that an alien cannot be removed because the particular statute under which he/she was convicted is “divisible” because it includes other types of weapons. The government must then prove with the record of conviction that the weapon was a firearm and not any other type of weapon.

**Domestic Violence & Stalking:** Convictions in this category include crimes involving domestic violence, stalking, or child abuse, neglect or abandonment. An alien may be able to challenge this charge if the government cannot prove there was a relationship between the alien and the victim that falls within the definition in the immigration law.

**Violation of Orders of Protection:** Any conviction that constitutes an admission to violating an Order of Protection renders an alien removable if committed at any time after entry, regardless of the sentence.

**Officer Notes:**

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## 30. Criminal Grounds of Inadmissibility

**CRIMINAL GROUNDS OF INADMISSIBILITY:** An alien may be subject to removal on inadmissibility grounds if they are unlawfully present without being admitted or paroled by an immigration officer (entered without inspection, EWI) and/or were convicted of certain crimes or admit to having committed these crimes:

- A controlled substance offense;
  - A crime involving moral turpitude (CIMT) subject to the petty offense exception.
- Each of these grounds of inadmissibility is discussed further below.

**Controlled Substances Offenses:** Note that unlike the controlled substance ground of deportability there is no exception for a single conviction for possession of less than 30 grams of marijuana.

**Crimes Involving Moral Turpitude:** Defined as crimes which are “inherently base, vile, or depraved, and contrary to the accepted rules of morality and the duties owed between persons or to society in general.” In general, crimes of moral turpitude fall into the following categories:

- i) crimes in which an intent to steal or defraud is an element;
  - ii) crimes in which bodily harm is caused or threatened, by an intentional or willful act;
  - iii) crimes in which serious bodily harm is caused or threatened by a reckless act; or iv) sex offenses.
- They include—but are not limited to—aggravated assault, sexual abuse (not involving a minor), kidnapping, arson, malicious destruction of property, criminal possession of stolen property, bribery, forgery, any crime involving either theft (such as robbery, burglary or larceny) or fraud (such as welfare fraud). There are two exceptions to this ground of removal:



- **Petty Offense Exception:** There is an exception that bars removability based on a CIMT if an alien has been convicted of only one CIMT. In order to fall within this exception the maximum penalty possible for the crime cannot exceed one year in prison and was not sentenced to a term of imprisonment of more than 6 months
- **Crime Committed When an Alien was under 18.** Another exception is if the alien was convicted of only one CIMT which was committed when the alien were under 18 years old, and the crime was committed more than 5 years before an application for admission.

## 31. Reentry

If an alien illegally re-enters the United States after having been ordered removed, the alien may be subject to criminal prosecution for violation of 8 USC, section 1326 and imprisoned for as long as twenty years depending on the basis of the original removal order.



Once an alien is removed, they are barred from returning to the United States for a definitive period of time, depending on the basis of the removal, unless they receive the permission from the Attorney General to lawfully return to the United States.

- Ordered removed on inadmissibility grounds  
(other than a controlled substance offense) . . . . . 5 year bar
- Ordered removed on deportation grounds  
(other than an aggravated felony) . . . . . 10 year bar
- Two or more orders of removal . . . . . 20 year bar
- Failure to attend removal proceedings . . . . . 5 year bar
- Ordered removed for an Aggravated  
Felony or controlled substance offense . . . . . lifetime bar

**Waivers may be available to allow certain kinds of re-entry despite these bars but the alien must apply and be granted permission to reenter.**

## **32. Prosecutions**

CAP Officers will encounter aliens subject to various violations of federal criminal laws during the performance of their duties and must be familiar with the processes and procedures for presenting and following through on criminal prosecutions. Prosecuting aliens who have violated the immigration laws of the United States serves not only as a punishment for the violators but also as a deterrent to others.

Most of the federal prosecutions presented by the Atlanta CAP Units originate from local and county jails. There may be an occasional case that originates from a state prison but historically the majority have come from the local and county jails. The most frequent violation Atlanta CAP officers encounter are aliens subject to prosecution for violation of Title 8, USC, section 1326, Reentry of removed aliens and this section of the Operational Guide will focus on some basic information concerning prosecutions for this violation.

When an officer determines that an alien has unlawfully reentered the United States in violation of 8 USC, 1326, he or she must obtain the facts surrounding the prior removal to determine if the case should be presented to the United States Attorney's Office. Many U.S. Attorney's Offices have "blanket or general waivers" for certain types of cases. These waivers serve as notice that the United States Attorney has determined that his or her office will not accept certain types of cases. For instance, it is a crime, under 8 USC, 1325, to enter or attempt to enter the United States at a place other than as designated by immigration officers, but the U.S. Attorney's in the Atlanta AOR will not accept prosecution for this offense unless it can be combined with other offenses they do accept. Additionally, most of the U.S. Attorney's Office's in the Atlanta AOR will not accept a reentry case without an underlying conviction for an aggravated felony. Please discuss cases with your supervisor to determine if the U.S. Attorney's Office has a blanket waiver in your area before contacting the Duty Assistant United States Attorney (AUSA).

Aliens removed as aggravated felons who unlawfully reenter the United States are subject to federal prosecution and the case should be presented to the U.S. Attorney's Office. Additionally an alien who was removed after being convicted for multiple criminal offenses who illegally reenters should also be presented for prosecution. Below is an outline of the steps to be taken in a prosecution case:

- a. Gather facts and evidence
- b. Contact your supervisor for guidance and authorization to present
- c. Contact Duty AUSA telephonically or electronically and present the case
- d. The Duty AUSA will accept or decline prosecution
- e. The acceptance or declination MUST be entered into TECS by the officer and a Report of Investigation (ROI) completed (contact TECS SCO DO (b)(6), (b)(7)(C) or your supervisor for further guidance)
- f. The officer will process the alien for removal by issuing an I-871 and notate the I-213 that prosecution for violation of 8 USC, 1326 was accepted by the U.S. Attorney's Office in (city).
- g. The U.S. Attorney's Office will assign the case to an AUSA

- h. The officer completes an Affidavit documenting the specifics of the case, the violation and provides supporting evidence to include prior records, documents, fingerprint comparisons, photographs, Certificate of Nonexistence of Record, etc.  
Note: The AUSA may prefer to secure a Grand Jury Indictment but caution must be exercised concerning custody issues. Detention of an alien by ICE DRO is for removal from the U.S. not to hold an alien pending prosecution. If an alien is in or will be coming into ICE custody soon, the officer must advise the AUSA of this fact so proper procedures can be followed and the alien taken into custody of the United States Marshals Service as soon as possible
- i. Once the alien is turned over to the USMS, the officer must lodge an I-247, Immigration Detainer-Notice of Action, with the USMS
- j. The AUSA will guide the prosecution and the officer through the process, including evidence, testimony and sentencing issues
- k. TECS must be updated and the case closed as required.



### 33. Typical Daily Operations

Below is an outline of typical daily activities of an IEA assigned to a local jail. Actual activities vary according to the specific assignment.

1. Agent obtains jail arrest reports
  - a. Identify possible foreign born nationals
  - b. Run record checks (b)(7)e
  - c. Assemble interview packets that include arrest/booking report, record checks, blank I-213, print card and arrest photo if available
  
2. Conduct jail interview
  - a. Establish alienage
  - b. Verify identity
  
3. Submit fingerprints to AFIS
  - a. If return is positive and A-file exists, request file transfer.
  - b. If return is negative, assign alien number from empty jacket
  
4. Generate and submit detainer with detention facility
5. Process alien in ENFORCE and assemble A-file
  - a. Delay ENFORCE submission if 851 removal is expected
  
6. Submit file for review by supervisor
7. Serve alien charging documents when advised of pending release
8. Submit pick-up request to transportation coordinator
  - a. Include copy of I-213
  - b. Copy of Charging documents served (and signed)
  - c. Completed A-file
  
9. Update NFTS of file transfer.





## 34. Alien Escort Operations



CAP personnel will be assigned to participate in the transportation of aliens and will escort aliens to accomplish specific tasks related to the mission of Detention and Removal Operations.

CAP program officers will be required to transport and escort aliens to and/or from:

- ICE and non-ICE detention facilities;
- shelters (juveniles);
- airports;
- courts;
- consulate offices;
- hospitals, doctor's office or other type of medical facility, and
- foreign and domestic destinations

CAP IEAs and DOs will also be required to transport and escort aliens through public access areas. It is important to be as inconspicuous as possible.

### *Types of Escorts*

**Consular Presentations:** The primary purpose in presenting an alien to his or her respective Consulate Officer in the United States is to obtain a travel document.

**Meet and Greet:** This is a term used to describe the process of transferring an alien from one field office to another, or having another field office meet the flight of an alien being removed from the United States. This may be required if an aircraft must land within the United States prior to departing to a foreign destination.

**Foreign Escorts:** An alien, who is a criminal and/or mentally or physically ill, may be escorted when removed from the United States pursuant to Department of Homeland Security and ICE Guidelines.

**Verified departure:** This term is used to describe the process of physically witnessing the departure of an "unescorted" alien. This activity is essential when a foreign escort has been deemed unnecessary but confirmation of departure from the U.S. is required.

## PRIOR TO DEPARTURE

1. Receive notification of pending travel.
2. Receive Omega travel itinerary.
3. Conduct pre-escort removal duty checks.
  - Check to see if you were granted 'Country Clearance' for this escort removal mission.
  - See if the Country Clearance cable requires immunization shot before traveling to the escorted destination. If the Country Clearance cable recommends immunization shots it's best to obtain them and avoid any problems, which may arise in that country or transiting countries.
  - Ask the Travel Coordinator whether this escort mission requires paper airline tickets or e-tickets.
  - Call the airline carrier 24 hours in advance to ensure that the flight will be departing as planned and as listed on the itinerary provided by Omega.
4. Obtain the A-file for review and NFTS to self.
  - Review the Escort Threat Assessment form to become familiar with the deportee's behavioral issues such as escape risk, criminal history and tendency towards violence.
  - Review or ask the Detained Docket DO for medical history and issues, which may be requested by the receiving country's government officials before accepting the deportee

## DAY OF DEPARTURE

5. Report to detention area with sufficient time to complete administrative paperwork.
6. Obtain document envelope containing property and various documents.
7. Complete I-205 and I-294 and place stapled copies in document envelope.
8. Ensure copies of shot records and country clearance forms are placed in document envelope.
9. Place signed original I-205 and I-294 in A-file.
10. Meet alien to be escorted at Inspections, Orange Secondary, Hartsfield - Jackson International Airport, Atlanta, GA.
11. Escort alien to flight.
  - If only verifying departure, indicate so.

# Table of Escort-Classification Categories

Group Descriptors	Level of Escort Required*
(b)(7)e	

(b)(6), (b)(7)c

**From:** (b)(6), (b)(7)c  
**To:**  
**Subject:** FW: 287 (g) getback questions  
**Date:** Wednesday, May 30, 2012 1:32:54 PM  
**Importance:** High

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(b)(6), (b)(7)c

I sent the Unit Chief a separate message saying it was 19 counties, not 16. With Horry 20 counties. Should be good to go now.

Thanks,

(b)(6), (b)(7)c

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**From:** (b)(6), (b)(7)c  
**Sent:** Wednesday, May 30, 2012 1:24 PM  
**To:** (b)(6), (b)(7)c  
**Subject:** FW: 287 (g) getback questions  
**Importance:** High

FYI-

Below is what I sent (b)(6), (b)(7)c (287(g) Unit Chief) in response to his questions and after I talked to him on the phone earlier.

Thanks,

(b)(6), (b)(7)c

(b)(6), (b)(7)c  
**DDO-Program Manager**  
**287(g) / ICE ACCESS**  
**US ICE**  
**ERO Atlanta**  
**404-893-(b)(6), (b)(7)c-office**  
**404-925-(b)(6), (b)(7)c-cell**

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**From:** (b)(6), (b)(7)c  
**Sent:** Wednesday, May 30, 2012 1:23 PM  
**To:** (b)(6), (b)(7)c  
**Subject:** RE: 287 (g) getback questions  
**Importance:** High

(b)(6), (b)(7)c

Below is the information you requested. Please let me know if you need anything else.

HISTORY:

Prior to the Horry County Sheriff's Office requesting the 287(g) Program three CAP Surge Operations were conducted. The operations involved identifying and processing aliens already at the facility and those arrested and booked into the facility during the operations. The first surge operation was conducted from 5/21/10 through 5/23/10. Twenty-four (24) criminal aliens were identified and processed during the 48 hour period. The second CAP Surge was conducted on 9/22/10 and another 24 criminal aliens were encountered in only a 24 hour period. The third CAP surge operation was conducted from 12/14/10 through 12/15/10 and fourteen (14) criminal aliens were identified and processed. Without these surge operations only a fraction, if any, of these criminal aliens could have possibly been encountered, identified and processed.

The CAP Surge Operations indicated that there is a significant criminal alien program in Horry County. A conservative estimate of the number of criminal aliens that could have been expected to be encountered had a surge operation been conducted over a 30 day period is 360-390 aliens.

The Horry County Sheriff's Office completed the 287(g) Needs Assessment on 9/27/10. The assessment makes note that the county has over 50 miles of Atlantic Ocean beaches, including Myrtle Beach, and approximately 14 million visitors each year. Given this large number of visitors, drug trafficking is a concern and the assessment also specifies that there is a large migrant/immigrant population employed in the hospitality, construction and agricultural industries and, like with any population, some commit crimes. The assessment also estimates that there 35 gang members in the area as well.

The assessment specified that, on average, 1,500 foreign-born persons are booked into the facility each year and, prior to the activation of Secure Communities, Horry County was sending about 120 IAQs to the LESC per month. The average number of detainers generated by ICE was estimated to be about 20 however as of today there are 47 ICE detainers lodged with the Horry County Sheriff's Office.

CURRENT COVERAGE AND STATISTICS

The CAP Unit in Charleston, SC currently processes cases that are encountered in Horry County, SC. The Charleston CAP Unit consists of only 7 agents/officers and the unit covers 16 counties in the State of South Carolina. The other counties in the state (46 total) are covered by ERO offices in Columbia and Greer. The Charleston CAP Unit is currently lodging, on average, 26 detainers at Horry County per month. Again, at this time there are 47 detainers lodged with the Horry County Sheriff's Office.

The average daily population of foreign-born persons at their detention center is 65.

Horry County Sheriff's Office reported that this past Memorial Day Weekend 2012 the arrests

averaged 100 per day and it was estimated that 20% of those arrested were foreign-born. That equates to 20 aliens per day or close to 60 aliens over the holiday weekend. As the summer tourism season gets under way the numbers are expected to remain the same.

It is estimated that 60-80 aliens per month are not being processed because of limited resources to cover the county.

Secure Communities was activated in Horry County, SC on 9/8/2010. The latest available Secure Communities statistics from <http://www.ice.gov/foia/library/index.htm#47> (through 3/31/12), are listed below:

*Alien IDENT Matches*

Level 1 = 104

Level 2/3 = 514

TOTAL = 618

*Removals and Returns*

Convicted of Level 1 = 14

Convicted of Level 2 = 37

Convicted of Level 3 = 39

ICE Fugitives = 1

Prior Removals and Returns = 13

EWI, Visa Violators and Overstays = 3

TOTAL 107 (17% of the IDENT matches)

Secure Communities is an identification tool but the program can only identify aliens whose prints are currently in DHS databases or other interacting databases. Secure Communities can't identify or provide the immigration status of anyone else arrested and booked into a facility. Additionally the Secure Communities program is not a force multiplier and the 287(g) Program is a force multiplier. ICE agents/officers have to interview and process aliens encountered as a result of a Secure Communities match and those same agents/officers must also interview and process other arrested aliens that are "no matches" if resources permit. Cases are reviewed and triaged in accordance with the current ICE priorities.

The 287(g) Program on the other hand allows for 24/seven screening of all foreign-born persons arrested and booked into a facility. The LEA deputies/officers do the interviewing and processing which equates to a very cost efficient force multiplier for ICE. In order to identify and process the same number of cases that the 287(g) program is expected to encounter at Horry County, ICE would have to increase FTEs significantly. Secure Communities is a good safety net for any location that has a 287(g) program and can assist the LEAs and ICE supervisor with identifying false claims to U.S. citizenship and other identification issues but it is not a replacement for a 287(g) program.

An operational 287(g) program at a facility also allows ICE to reassign agents/officers to other

enforcement efforts designed to identify, arrest, process and remove criminal aliens at other locations.

AOR LOGISTICS

It should be noted that the Horry County Sheriff's Office is approximately 2 ½ hours from the closest ICE ERO Offices located in Charleston and Columbia. Currently there are no ICE ERO resources in or near Horry County, SC. The distance from the closest ICE ERO offices makes it difficult to provide additional coverage at Horry County and process the cases that are currently being missed due to available resources and prioritizing cases.

Hope this what you needed and it helps. Let me know if you need something else.

Thanks,

(b)(6), (b)(7)c

(b)(6), (b)(7)c

**DDO-Program Manager**  
**287(g) / ICE ACCESS**  
**US ICE**  
**ERO Atlanta**  
**404-893- office**  
**404-925- cell**

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**From:** (b)(6), (b)(7)c  
**Sent:** Wednesday, May 30, 2012 10:00 AM  
**To:** (b)(6), (b)(7)c  
**Subject:** 287 (g) getback questions

Q: Need analysis of why Horry County SC and Knox County TN's applications for jail model were approved. Need to demonstrate how the jail model is a value add even though Secure Communities is deployed in those counties. Also need statistics on how many are identified through Secure Communities by criminal level and how many ICE is not able to take into custody due to scope of AOR.

(b)(6), (b)(7)c

Above is the question from the front office (Director Morton) concerning the 2 recently approved 287 (g) programs. I need the following information to answer the question:

1. How many detainees CAP is lodging per month
2. How many aliens ICE is not able to take into custody due to the scope of the AOR.

Also, it would be helpful to identify the uniqueness of each AOR. For instance, the distance to the closest sub-office and the number of CAP or other ERO FTEs in the AOR and their geographical distribution. Let me know if you have any questions.

(b)(6), (b)(7)c

Unit Chief

287 (g) Program

202-732 [redacted] Office  
202-527 [redacted] Cell



**From:** (b)(6), (b)(7)c  
**To:** (b)(6), (b)(7)c  
**Cc:**  
**Subject:** RE: Please review  
**Date:** Friday, November 23, 2012 10:12:15 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[287\(g\) Annual Review Memo - Charleston-FY12.docx](#)

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The success stories were rather weak. Any better ones?

I cleaned up the first one, but the second doesn't discuss his immigration history.

Case-1

On September 12, 2012, SUBJECT was arrested by the Charleston County Sheriff's Office, SC for the offenses of NO DRIVER'S LICENSE AND NO INSURANCE. SUBJECT was transported to the Charleston County Detention Center where he was encountered by 287 (g) deputies pursuant to the 287 (g) program. SUBJECT claimed to be a citizen and national of Honduras, who last entered the United States on or about November 13, 1999 in TX. SUBJECT was not inspected or admitted by an Immigration Officer. SUBJECT was apprehended in Eagle Pass, TX by the U.S. Border Patrol on the same date and was placed in removal proceedings and remanded to see and Immigration Judge. On October 29, 2001, SUBJECT was ordered removed from the United States by an Immigration Judge, in absentia. SUBJECT subsequently absconded and remained in the United States in violation of his removal order.

Case-2

**CASE INITIATION:** On August 12, 2012, SUBJECT was arrested by the North Charleston Police Department for the offense of Driving Under Suspension 1st Offense and Reckless Driving. SUBJECT was transported to the Charleston County Detention Center where he was encountered by 287(g) deputies pursuant to the 287(g) program.

**CRIMINAL HISTORY:** SUBJECT was arrested on August 12, 2012 by the North Charleston Police Department for the offense of Driving Under Suspension 1st Offense and Reckless Driving, local charges still pending. SUBJECT was arrested on February 12, 2010 by the North Charleston Police Department for the offense of Interference/Hindering Officer and Resisting Arrest, disposition: unknown.

Thank you.

(b)(6), (b)(7)c

(b)(6), (b)(7)c  
Deputy Field Office Director  
Atlanta Field Office  
Ofc.: (404) 893-1347  
Fax.: (404) 893-1347  
(b)(6), (b)(7)c @dhs.gov

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**From:** (b)(6), (b)(7)c

**Sent:** Friday, November 23, 2012 8:24 AM  
**To:** [redacted]  
**Cc:** [redacted] (b)(6), (b)(7)c  
**Subject:** RE: Please review

The yellow is not on the WORD DOC, and I shortened it on the Cases on it as well

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**From:** [redacted] (b)(6), (b)(7)c  
**Sent:** Friday, November 23, 2012 8:06 AM  
**To:** [redacted]  
**Cc:** [redacted] (b)(6), (b)(7)c  
**Subject:** Please review

**MEMORANDUM FOR:** Daniel Ragsdale  
Acting Deputy Director

**THROUGH:** Gary Mead  
Executive Associate Director

**FROM:** [redacted] (b)(6), (b)(7)c  
Acting Field Office Director  
Atlanta Field Office

**SUBJECT:** FOD Oversight and Data Quality Review of the Charleston County Sheriff's Office 287(g) Program Fiscal Year 2012

-  
**Background:**

The Charleston County Sheriff's Office's (CCSO) 287(g) has been participating in the 287(g) program under the Jail Enforcement Model since on November 8, 2009. Since that time the CCSO's 287(g) program has been a valued law enforcement agency (LEA) partner of the Atlanta Field Office. Currently there are [redacted] (b)(7)e Charleston County 287(g) Designated Immigration Officers (DIOs) authorized and actively using their 287(g) authority. The CCSO DIOs are assigned to the booking area of the jail when performing 287(g) duties and they screen all foreign-born persons arrested and booked into the Charleston County Detention Center.

The CCSO 287(g) program is supervised by Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) FOD/Atlanta. The CCSO 287(g) program is one of twelve 287(g) programs in the FOD/Atlanta Area of Responsibility (AOR). The program has one Supervisory Detention and Deportation Officer (SDDO), assigned full-time to supervise the CCSO 287(g) program on a daily basis and to ensure compliance with ICE policies/priorities and the MOA. Additionally the Atlanta Field Office has a Detention and Deportation Officer, Program Manager (DDO-PM) to administer and manage this 287(g) program along with one other 287(g) program in the state of South Carolina.

-  
**Training:**  
The CCSO has [redacted] (b)(7)e certified DIOs that have successfully completed the required Immigration

Authority Delegation Program (IADP) training. (b)(7)e new DIOs were trained during Fiscal Year 2012 (FY12) and the CCSO plans to send (b)(7)e to IADP during Fiscal Year 2013 (FY13). All DIOs participating in the CCSO 287(g) program are required to complete any and all additional training deemed necessary by ICE/ERO Headquarters (HQ) 287(g) Unit. Periodic notifications are sent by the Program Manager to ensure all training is completed in a timely manner. If a deficiency is identified, the issue is quickly resolved and proper notifications are sent to the ICE/ERO HQ 287(g) Unit confirming the completion of the required training. The Atlanta Field Office also ensures that all ICE and ERO policies and procedures concerning enforcement operations are distributed to the DIOs and the CCSO command staff. Currently all of the CCSO DIOs participating in the 287(g) program are in compliance with all mandatory training requirements, including all mandated courses in Virtual University.

The CCSO has (b)(7)e who are assigned to supervise and monitor the DIOs assigned to the CCSO 287(g) program. (b)(7)e (b)(7)e completed IADP training and therefore they too are certified DIOs.

**Data Quality:**

In order to provide accurate information regarding the criminality levels of aliens encountered by the CCSO 287(g) program, information must be properly recorded in ENFORCE by all DIOs. Throughout FY 2012 the Atlanta Field Office in conjunction with the ERO 287(g) Unit at Headquarters has monitored data quality issues. Reported errors were reviewed and if a deficiency was discovered the DIOs were advised of the error and the error was corrected. Additionally the DIOs were provided additional guidance and training to prevent errors. Error rates for this program have continued to improve and the Atlanta Field Office will continue to monitor data quality issues to minimize errors and ensure data quality.

The table below provides data on the number of encounters and arrests made by the CCSO 287(g) program during FY12.

Offense Category	Encounters		Processed for Removal/VR				Removals/VR			
	Total	% Total	Criminals	Non-Criminals	Total	% Total	Criminals	Non-Criminals	Total	% Total
NCIC Level 1*	45	4.0%	36	0	36	5.2%	13	2	15	5.0%
NCIC Level 2	100	9.0%	71	0	71	10.2%	27	4	31	10.4%
NCIC Level 3**	559	50.2%	313	0	313	45.1%	139	19	158	53.0%
Traffic - DUI	96	8.6%	62	0	62	8.9%	30	4	34	11.4%
Traffic - Other	312	28.0%	0	212	212	30.5%	54	6	60	20.1%
None	0	0.0%	0	0	0	0.0%	0	0	0	0.0%
No Data	2	0.2%	0	0	0	0.0%	0	0	0	0.0%
<b>TOTALS</b>	<b>1,114</b>	<b>100.0%</b>	<b>482</b>	<b>212</b>	<b>694</b>	<b>100.0%</b>	<b>263</b>	<b>35</b>	<b>298</b>	<b>100.0%</b>

The 287(g) program at the Charleston County Sheriff’s Office is operating in compliance with ICE priorities and the MOA. As previously cited, all foreign-born persons arrested and booked into the Charleston County Jail are screened to determine if they are subject to removal based on violations of the Immigration and Nationality Act (INA). Level 1 and Level 2 offenders are given the highest priority and processed before others, however the CCSO has an adequate number of DIOs to identify and process most of the removable aliens encountered after they

have been arrested and booked into the jail for a criminal offense(s) by the multiple state and local law enforcement agencies operating within Charleston County, SC.

The DIOs conduct criminal history checks and immigration status checks on each person to determine if the person is subject to removal from the United States based on their criminal history/convictions or their immigration status. Race and/or ethnicity are not used to determine who does or does not get screened as the only factor considered is place of birth. Screening all arrested foreign-born persons ensures uniform application of the screening process and prevents allegations of selective enforcement of the law and/or racial profiling.

Of the 694 aliens processed for removal or voluntary return (VR) by the CCSO 287(g) DIOs, 15.4% fall within Level 1 and 2 offenses, i.e. ICE priorities. Level 3 offenses totaled 45.1% and "Traffic DUI", another ICE priority, totaled 8.9% of the cases processed. Therefore the total percentage for Level 1, 2, 3 and "Traffic DUI" offenders was 69.4% for all cases processed and represented 79.8% of the total removals in FY12, which is 16.3% higher than in FY11. It should be noted that the percentage of removals would have most likely been higher however several of the aliens processed for removal as Level 1, 2, 3 or "Traffic DUI" offenders during FY12 were not removed during the fiscal year because they are pending trial, serving prison/jail sentences or their cases are still pending with the state, local or immigration courts.

Only two cases out of 1,114 encounters were identified as "None". Those cases were not processed for removal and were corrected during routine audits for data quality. There were no "No Data" cases for FY12. There were 62 (8.9%) removable aliens processed under the "Traffic-DUI" category and 34 of those cases were removed from the United States during FY12.

During FY12 the CCSO encountered 312 offenders under the "Traffic-Other" category. During the review it was noted that many of the offenders arrested for "Traffic-Other" violations were also ICE fugitives, aliens who reentered the United States after having been previously removed or recent illegal entrants. During FY12 the CCSO 287(g) program processed over 56 ICE fugitives. Of the 312 cases, 212 (30.5%) were processed for removal or VR and 60 were removed from the United States. The 100 cases that were not processed for removal under this category were cases where prosecutorial discretion was exercised or it was determined that the aliens were lawful permanent residents, not amenable to removal, or non-removable aliens or naturalized United States citizens (USCs).

The CCSO is fully aware and have communicated to all of the police departments operating in the county that they need to be vigilant against racial profiling. To date there have been no reported allegations of racial profiling against the local or state police departments in Charleston County, SC.

**Statistics:**

Per the MOA, law enforcement agencies (LEAs) are expected to pursue to completion all criminal charges that cause the alien to be taken into custody within their jurisdiction. Of the 694 aliens processed by 287(g) DIOs, there were twelve cases turned over to ICE without prosecution and only .023% of the cases encountered were dismissed.

The CCSO provided statistics for the overall number of arrests and charges for FY12. During FY12 there were 30,772 persons arrested and booked into the Charleston County Detention Center. The table below provides comparative data on the current disposition of the 287(g) Jail Enforcement Model at the CCSO.

FY11 Charleston County Sheriff's Office Comparative Data							
Category	LEA Arrest Data	287g Foreign Born Arrest Data	USC Arrest Data	USC Arrest Percentage (See Chart 1)	Foreign Born Arrest Percentage (See Chart 1)	Percentage of USC Arrest Relative to Population (See Chart 2)	Percentage of Foreign Born Arrest Relative to Population (See Chart 2)
	6,667	45	6,622	99.3 %	0.7%	1.9%	.2%
Manors	16,593	659	15,934	96 %	4%	4.7%	3.2 %
UI/Other	7,512	408	7,104	94.5%	5.5%	2.1 %	2%

Population	USC Population	Foreign Born Population	USC Population Percentage	Foreign Born Population Percentage
357,704	337,673	20,031	94.4%	5.6%

-  
*Notes: The figure above for "287(g) Foreign Born Arrest Data" for Felonies reflects NCIC Level 1offenses  
The figure for Misdemeanors reflects NCIC Level 2 and 3 offenses*

*The population figures above were obtained from the U.S. Census Bureau, 2011 estimates  
(<http://quickfacts.census.gov/qfd/states/13/13135.html>)*

The information from the tables above are displayed into comparative charts on the following page which reflects that the percentage of foreign-born persons arrested for all offenses in Charleston County, SC is significantly lower than the percentages of USCs arrested (Chart 1). Additionally when the arrests for USCs and foreign-born persons are compared against their relative percentage of the county population, the percentage of foreign-born persons arrested is again significantly lower than their representative population in the county (Chart 2).

-  
**Steering Committee:**

The Steering Committee Meeting will be conducted in December 2012 at the Charleston County Sheriff's Office. The following participants are scheduled to attend:

*ICE-ERO*

(b)(6), (b)(7)c Acting Field Office Director  
(b)(6), (b)(7)c DDO- 287(g) Program Manager  
(b)(6), (b)(7)c AFOD  
SDDO (b)(6), (b)(7)c Charleston County 287(g) program

*Charleston County Sheriff's Office*

Sheriff J. Al Canon, Jr.

Chief (b)(6), (b)(7)c

Major (b)(6), (b)(7)c

Major (b)(6), (b)(7)c

Captain (b)(6), (b)(7)c

Lt. (b)(6), (b)(7)c

The following topics will be discussed during the meeting:

- Statistical Overview from the 287(g) program for FY12
- ICE priorities, prosecutorial discretion and Deferred Action for Childhood Arrivals (DACA)
- Inform the CCSO that their 287(g) program is tentatively scheduled for a Focus Review

this year by the Office of Professional Responsibility (OPR)

- Reemphasize procedures outlined in the MOA that notification to OPR is required anytime complaints, allegations are filed or disciplinary action is taken against any DIO
- Reemphasize procedures and protocol for handling claims to U.S. citizenship
- Data quality issues
- Discuss any media issues and the need to coordinate with ICE as required in the MOA
- Training needs of the CCSO for the 287(g) program
- Any other issues the CCSO Sheriff or the command staff may want to discuss

**OPR/MIU:**

During FY12 there were no complaints or allegations received by the CCSO or ICE related to the 287(g) program. However there were four incidents that were reported to the Joint Intake Center (JIC) and OPR by the DDO-PM relating to conduct/disciplinary actions taken against three DIOs from the CCSO.

The first incident involved a 287(g) DIO who failed to complete an overtime assignment and was suspended for one day. This same officer also received a letter of reprimand for unsatisfactory performance. The officer resigned from the CCSO a short time later.

Another 287(g) DIO was suspended for two days for negligence in searching an inmate. Lastly a 287(g) DIO was terminated for excessive use of force on an inmate. The incident did not involve an alien and was not related to the officer's 287(g) duties. There were no other incidents during FY12.

During FY12 there were no non-287(g) officer complaints received by the CCSO or ICE concerning the 287(g) program. Additionally no complaints were received by the CCSO or ICE that concerned civil rights violations or allegations that witnesses or victims of crimes were subjected to immigration enforcement actions.

**Allegations:**

There are no current investigations of the CCSO by any federal agencies concerning the 287(g) program.

-

**Success Stories:**

Case-1

CASE INITIATION: On September 12, 2012 SUBJECT was arrested by the Charleston County Sheriff's Office, SC for the offenses of NO DRIVER'S LICENSE AND NO INSURANCE. SUBJECT was transported to the Charleston County Detention Center where he was encountered by 287 (g) deputies pursuant to the 287 (g) program.

IMMIGRATION HISTORY: SUBJECT claims to be a citizen and national of Honduras, who last entered the United States on or about November 13, 1999 in TX. SUBJECT was not inspected or admitted by an Immigration Officer. SUBJECT did thereby avoid inspection by U. S. immigration. SUBJECT was apprehended in Eagle Pass, TX by the U.S. Border Patrol on the same date and was placed in removal proceedings and remanded to see and Immigration Judge. On October 29, 2001 SUBJECT was ordered removed from the United States by an Immigration Judge, in absentia. SUBJECT absconded and was not deported back to Honduras.

## Case-2

**CASE INITIATION:** On August 12, 2012, SUBJECT was arrested by the North Charleston Police Department for the offense of Driving Under Suspension 1st Offense and Reckless Driving. SUBJECT was transported to the Charleston County Detention Center where he was encountered by 287(g) deputies pursuant to the 287(g) program.

**CRIMINAL HISTORY:** SUBJECT was arrested on August 12, 2012 by the North Charleston Police Department for the offense of Driving Under Suspension 1st Offense and Reckless Driving, local charges still pending. SUBJECT was arrested on February 12, 2010 by the North Charleston Police Department for the offense of Interference/Hindering Officer and Resisting Arrest, disposition: unknown.

### **Other:**

During FY12 there were no issues raised by any non-governmental organizations concerning the 287(g) program at the CCSO.

During FY12 there were no outreach meetings conducted by ICE or the CCSO concerning the 287(g) program at the CCSO.

### **Public/Media:**

There were no known media stories about the CCSO 287(g) program in FY12 however an internet search was also conducted and no stories from FY12 were found.

The CCSO is in compliance with coordinating media inquiries and the release of information obtained from ICE systems with the Atlanta Field Office and ICE's Public Affairs Office.

### **Recommendation:**

The 287(g) program is adhering to the priorities and obligations set forth in the MOA. The CCSO is a supporter of ICE's mission and exercises the 287(g) delegated authority in a uniform and consistent manner in compliance with the priorities of ICE. Level 1 and 2 offenders are always given the highest priority and others categories of criminal aliens are processed as resources permit. The CCSO screens all foreign-born persons after they been arrested by state and local law enforcement officers in order to prevent selective enforcement of the law and eliminate claims of racial profiling by the CCSO staff. The Atlanta Field Office makes all custody determinations and exercises prosecutorial discretion when merited.

The partnership that the Atlanta Field Office has with the CCSO 287(g) program has been beneficial. The program is a force multiplier and without the program the Atlanta Criminal Alien Program (CAP) would have to assume the processing of all the cases the program generates. With limited resources it is highly likely that there would be far fewer criminal, removable and fugitive aliens identified, processed and removed. The program is mutually beneficial to the CCSO and the community as the Charleston County Sheriff's Office has reported that the number of foreign-born persons committing crimes has declined since the beginning of the program.



The Atlanta Field Office supports the continuation of the 287(g) program at the CCSO and will continue to manage, oversee and monitor the program to ensure compliance with the MOA and ICE priorities.

(b)(6), (b)(7)c

287g Program Manager

704-965-(b)(6), (b)(7)c

**From:** (b)(6), (b)(7)c  
**To:**  
**Cc:**  
**Subject:** FW: IAQ/IAR; ORI; RE: IAR Compliance Report  
**Date:** Wednesday, July 17, 2013 12:14:32 PM  
**Attachments:** Fact Sheet IAR Interoperability Query ID (EABM).docx  
IAR Sample (b)(7)e biometric- NN02 001 (5) (2).docx  
IAR Sample- NOT Biometric- nn02\_000.docx

FYI and compliance.

Thank you.

(b)(6), (b)(7)c  
(b)(6), (b)(7)c  
Deputy Field Office Director  
Atlanta Field Office  
Ofc : (404) 893- (b)(6), (b)(7)c  
Fax : (404) 893-1347  
(b)(6), (b)(7)c@dhs.gov

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**From:** (b)(6), (b)(7)c  
**Sent:** Wednesday, July 17, 2013 11:50 AM  
**To:**  
**Cc:** (b)(6), (b)(7)c  
(b)(6), (b)(7)c  
**Subject:** FW: IAQ/IAR; ORI; RE: IAR Compliance Report

(b)(6), (b)(7)c

1. It appears the confusion has been resolved in reference to the discrepancy between HQ's count of the # of IARs for which we are not creating an ENFORCE Event/Encounter and our count of those numbers.

(b)(7)e

(b)(6), (b)(7)e  
(b)(7)e

(b)(6), (b)(7)c You may want to forward to your NC and SC folks who are handling the IARs, as well as 287(g).

(b)(6), (b)(7)c FYI, the 287(g) locations need to be doing this also. I believe they receive faxes of the IARs from (b)(6), (b)(7)c and perhaps from the Miami IRC.

**From:** (b)(6), (b)(7)c  
**Sent:** Wednesday, July 17, 2013 10:50 AM  
**To:** (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c  
Subject: RE: IAQ/IAR; ORI; RE: IAR Compliance Report

(b)(6), (b)(7)c

Thanks for your insight on this, I will make sure the distinction is articulated to the field.

---

**From:** (b)(6), (b)(7)c  
**Sent:** Wednesday, July 17, 2013 10:42 AM  
**To:** (b)(6), (b)(7)c  
**Cc:** (b)(6), (b)(7)c  
**Subject:** RE: IAQ/IAR; ORI; RE: IAR Compliance Report

1. All of the (b)(7)e ARs are biometric.
2. All other IARs are biographic (name, dob, etc).
3. State law requires all GA law enforcement agencies to submit a biographic IAQ to the LESC for every foreign born individual they arrest. The benefit to ICE is that we get notice from those IAQs on undocumented criminal aliens who slipped across the border without ever having been detected/IDENT'd (in other words, the "foreign-born, no-match" cases), although there are also a lot of USCs included in those.

I think we've resolved the confusion, as long as the tasking that comes out specifies that we are only required to create an Event/Encounter for the (b)(7)e biometric IARs, and not the others. Unfortunately, it will still be a heavy lift to create the additional Events/Encounters, even if it is only for the (b)(7)e/biometric IARs.

(b)(6), (b)(7)c  
DEPUTY FIELD OFFICE DIRECTOR  
(RESPONSIBLE FOR THE STATE OF GEORGIA, EXCEPT THE STEWART DETENTION CENTER)  
ATLANTA FIELD OFFICE  
ENFORCEMENT AND REMOVAL OPERATIONS  
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT  
DEPARTMENT OF HOMELAND SECURITY  
OFFICE: (404) 896- (b)(6), (b)(7)c

---

**From:** (b)(6), (b)(7)c  
**Sent:** Wednesday, July 17, 2013 8:37 AM  
**To:** (b)(6), (b)(7)c  
**Cc:** (b)(6), (b)(7)c  
**Subject:** RE: IAQ/IAR; ORI; RE: IAR Compliance Report

That's great (b)(6), (b)(7)c

I too have been looking into the discrepancies I found IIDS captures the IARs created at LESC for those that originate from biometrics. Can you tell if the IARs you are getting with originators other than (b)(7)e are biometric matches or other type matches/inquires?

---

**From:** (b)(6), (b)(7)c  
**Sent:** Tuesday, July 16, 2013 5:31 PM  
**To:** (b)(6), (b)(7)c  
**Cc:** (b)(6), (b)(7)c  
**Subject:** RE: IAQ/IAR; ORI; RE: IAR Compliance Report

I think I solved it. I think the STU's # only includes the IARs that originated from an Interoperability/Secure Communities IAQ. [Those IARs that show an ORI beginning with (b)(7)e" – see sample attached.] If that is the case, it appears ATL (for GA only – not including N. Carolina and S. Carolina) received 1,531 for June, which if combined with the likely # of North and South Carolina IARs would probably be close to the monthly numbers the STU generally reflects on its report for the Atlanta AOR.

So the tasking is not: "All IARs received by the field must have an ENFORCE Event/Encounter created, and the LESC Query ID # from the IAR must be included in the ENFORCE Event/Encounter."???

But rather the tasking should be: "All IARs received by the field \*that show an originating ORI of (b)(7)e" \* must

have an ENFORCE Event/Encounter created, and the LESC Query ID # from the IAR must be included in the ENFORCE Event/Encounter.”???

If this is the case, it will still be a very heavy lift for the field, but for Atlanta it will mean only approx. 2,000 additional Encounters per month that we have to create in ENFORCE, vs. the 6,000+ that I originally thought the tasking was going to require of us.

[ By the way, the table below should have said “IAR” received, not “IAQ” received. We (ATL/ERO) don’t generate or receive any IAQs. We only receive IARs – from the LESC via our dedicated TECS terminal.]

---

**From:** (b)(6), (b)(7)c  
**Sent:** Tuesday, July 16, 2013 5:24 PM  
**To:** (b)(6), (b)(7)c  
**Cc:** (b)(6), (b)(7)c  
**Subject:** IAQ/IAR; ORI; RE: IAR Compliance Report

(b)(6), (b)(7)c

Sorry for the delay in responding – busy day.

We are counting the individual # of IARs that are being sent to our dedicated TECS terminal that is set up to receive the IARs for Georgia (the IARs received by N. Carolina and S. Carolina are not included in our local counts). I have attached a zip file of the 5,897 IARs we received in June (for GA only) as an example. [The STU stats appear to show that the entire ATL AOR (including N. Carolina and S. Carolina) only receives about 1100 each month.]

It may be that some of our 5,897 for June contain duplicate “LESC Query ID” #'s, but I searched a few of them and did not find duplicate LESC #'s. [e.g., L.E.S.C. QUERY ID: (b)(7)e ; LESC QUERY ID: (b)(7)e  
LESC QUERY ID: (b)(7)e

Georgia-only IAQ Monthly Stats – 2013 (Received by ATL from LESC)					
	April	May	June	July	August
Total IAQ Received	7,155	6,601	5,897		

(b)(6), (b)(7)c

You asked the ORI of the terminal on which we receive the Georgia IARs. Would it be: (b)(7)e ?

(b)(6), (b)(7)c  
DEPUTY FIELD OFFICE DIRECTOR  
(RESPONSIBLE FOR THE STATE OF GEORGIA, EXCEPT THE STEWART DETENTION CENTER)  
ATLANTA FIELD OFFICE  
ENFORCEMENT AND REMOVAL OPERATIONS  
U. S. IMMIGRATION AND CUSTOMS ENFORCEMENT  
DEPARTMENT OF HOMELAND SECURITY  
OFFICE: (404) 896-9600 (b)(6), (b)(7)c

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**From:** (b)(6), (b)(7)c  
**Sent:** Tuesday, July 16, 2013 3:15 PM  
**To:** (b)(6), (b)(7)c  
**Subject:** IAR Compliance Report

Hello (b)(6), (b)(7)c

(b)(6), (b)(7)c informed me of the concerns you had about the number of IARs the report listed for ATL. I would like to set up a teleconference with STU (b)(6), (b)(7)c and myself, but I would like to speak with you first to identify the data set you were analyzing and review the numbers. Are you available this afternoon to discuss this over the phone? If so please give me a time to call you. After we discuss I will set up the meeting and have it properly framed for STU.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Immigration and Customs Enforcement  
Law Enforcement Systems and Analysis  
Data Quality and Integrity Unit  
Office: 202-782-<sup>(b)(6), (b)(7)c</sup>

+++++ earlier e-mail: +++++

**From:** (b)(6), (b)(7)c

**Sent:** Monday, July 15, 2013 4:43 PM

**To:** (b)(6), (b)(7)c

**Subject:** IAR Compliance Question

(b)(6), (b)(7)c

I wanted to directly address the IAR compliance question that you recently posed during last week's DQI Monthly Teleconference. The nationwide average of IAR compliance is approximately 40%. Based on the IAR Compliance Report for the past few months; which is tracking the number of IAR Query Pk Ids that are recorded within the system, ATL has been very close to the national average.

Month	IDENT Matches	Query Ids Recorded	% of Total IARs
May	2,897	1,143	<b>39.45%</b>
April	2,949	1,162	<b>39.40%</b>
March	2,981	1,054	<b>35.36%</b>
ATL	2,375	994	<b>41.85%</b>

Just FYI since you asked.

Thank you,

(b)(6), (b)(7)c

*Office of Enforcement and Removal Operations (ERO)*

*Law Enforcement Systems & Analysis Division*

*Data Quality & Integrity Unit Chief*

(202) 732-<sup>(b)(6), (b)(7)c</sup> - ofc

(202) 497-<sup>(b)(6), (b)(7)c</sup> bb



U.S. Immigration  
and Customs  
Enforcement

# EABM Fact Sheet

*Office of Enforcement and Removal Operations*

**ENFORCE Alien Booking Module (EABM): Method of documenting the IAR Interoperability Query Identification Number into the encounter.**

## *Overview*

ERO has implemented a new list of values (LOV) in the Miscellaneous Numbers for Subject Field in ENFORCE.

**Required method of entering the Interoperability Query ID into the encounter:**

(b)(7)e

2.

(b)(7)e

3.

4.

(b)(7)e

5.

(b)(7)e



15:06

TECS II EXTERNAL MESSAGE DISPLAY

06042013

(b)(6), (b)(7)c

FROM (b)(7)e ON 06/04/13 AT 11:32:52

(b)(6), (b)(7)c

08:32 06/04/2013 06312

08:32 06/04/2013 01220 (b)(6), (b)(7)c

(b)(6), (b)(7)c

TEXT

\*\*\* LAW ENFORCEMENT SENSITIVE \*\*\*

IAQ RECEIVED: 06/04/13 08:54:59 AM

(b)(6), (b)(7)c

NAM/  
DOB/  
FBI/  
ARN/  
REM/

(b)(6), (b)(7)c

(b)(6), (b)(7)c

\*\*\*\* QUERY MESSAGE TEXT ENDS - L.E.S.C. RESPONSE BEGINS \*\*\*\*

(b)(6), (b)(7)c

\*\*\*\* BASED ON THE INFORMATION PROVIDED \*\*\*\*  
THE FOLLOWING I.C.E. RECORD APPEARS TO RELATE:

NAM/  
AKA/  
DOB/  
POB/

(b)(6), (b)(7)c

MEXIC --> MEXICO

ARN/  
FCO/  
FBI/  
SID/  
DOE/  
SOC/  
LKA/

(b)(6), (b)(7)c, (b)(7)e

FFN/  
MFN/

(b)(6), (b)(7)c

NATURALIZATION CERTIFICATE/  
NATURALIZATION DATE/  
NATURALIZATION LOCATION/ ATL

(b)(6), (b)(7)c

(b)(6), (b)(7)c

REM/

FIN (b)(6), (b)(7)c

I.C.E. RECORDS INDICATE THAT THIS SUBJECT IS A UNITED STATES CITIZEN. THIS INDIVIDUAL IS NOT SUBJECT TO REMOVAL FROM THE UNITED STATES.

NO FURTHER ACTION BY I.C.E. WILL BE TAKEN.

SUBJECT IS A NATURALIZED UNITED STATES CITIZEN

\*\*\*\*\*

For further information contact ICE Atlanta, GA;

- Aliens IN CUSTODY - Enforcement and Removal Operations at (404) 893 (b)(6), (b)(7)c
- Aliens NOT IN CUSTODY (Roadside) Homeland Security Investigations at (404) 331 (b)(6), (b)(7)c
- Or the Law Enforcement Support Center at (802) 872 (b)(6), (b)(7)c

REQUESTING ORI INFORMATION:

AGENCY (b)(7)e  
PHONE/

LESC QUERY ID:

\*\*\* LIMITED OFFICIAL USE \*\*\*

(b)(7)e

END OF RESPONSE . . .

FROM (b)(7)e ON 05/31/13 AT 14:19:47

(b)(7)e

TXT

\*\*\* LAW ENFORCEMENT SENSITIVE \*\*\*

IAQ RECEIVED: 05/31/13 01:20:06 PM

(b)(6), (b)(7)c

NAM/  
DOB/  
FBI/  
ARN/

(b)(6), (b)(7)c

REM/ NOT IN CUSTODY

\*\*\*\* QUERY MESSAGE TEXT ENDS - I.E.S.C. RESPONSE BEGINS \*\*\*\*

(b)(7)e

\*\*\*\* BASED ON THE INFORMATION PROVIDED \*\*\*\*  
THE FOLLOWING I.C.E. RECORD APPEARS TO RELATE:

NAM/  
DOB/  
POB/ GERMA --> GERMANY  
ARN/ \*

(b)(6), (b)(7)c

DOE/

(b)(6), (b)(7)c

I.C.E. RECORDS INDICATE THAT THIS SUBJECT IS A UNITED STATES CITIZEN. THIS INDIVIDUAL IS NOT SUBJECT TO REMOVAL FROM THE UNITED STATES. NO FURTHER ACTION BY I.C.E. WILL BE TAKEN.

\*\*\*\*\*  
For further information contact ICE Atlanta, GA;

- Aliens IN CUSTODY - Enforcement and Removal Operations at (404) 893 (b)(6), (b)(7)c
- Aliens NOT IN CUSTODY (Roadside) Homeland Security Investigations at (404) 331 (b)(6), (b)(7)c
- Or the Law Enforcement Support Center at (802) 872 (b)(6), (b)(7)c

REQUESTING ORI INFORMATION:  
AGENCY/  
PHONE/

(b)(7)e

\*\*\* LIMITED OFFICIAL USE \*\*\*

ND OF RESPONSE . . .

**From:** [redacted]  
**To:** [redacted] (b)(6), (b)(7)c  
**Cc:**  
**Subject:** FW: A Message from Director Morton  
**Date:** Monday, June 18, 2012 9:26:16 AM

---

Below are 3 questions I've asked [redacted] (b)(6), (b)(7)c to see if she can get clarified. But for now, we follow the guidance as plainly written, which says that no one who otherwise meets the criteria is to be placed in removal proceedings, even if charged with a crime (they must be convicted per Secretary Napolitano's order).

---

**From:** [redacted] (b)(6), (b)(7)c  
**Sent:** Monday, June 18, 2012 9:18 AM  
**To:** [redacted] (b)(6), (b)(7)c  
**Cc:**  
**Subject:** RE: A Message from Director Morton

Sorry, one more that we need clarified (I'm putting all 3 questions together below for convenience)

1. One of the criteria is "has not been convicted of a felony offense, a significant misdemeanor offense, or multiple misdemeanor offenses," so we are NOT putting anyone into removal proceedings, regardless of the crime they are charged with, until convicted. (One of the problems is that we don't have a system in place to track cases down, once they are convicted, so unless they go to state prison, most of these will end up not coming to our attention and will not end up getting processed for removal.) Please let us know if this is not the correct course of action to take.
2. Are we still required to create an Event in ENFORCE for EVERY case referred to us by LESG that we don't place into removal proceedings, including the cases that fit this new criteria?
3. Are the IRCs going to stop putting detainees on the cases that we've been directed not to put into removal proceedings under the new criteria?

[redacted] (b)(6), (b)(7)c  
Deputy Field Office Director  
(responsible for the state of Georgia, except the Stewart Detention Center)  
Atlanta Field Office  
Enforcement and Removal Operations  
U. S. Immigration and Customs Enforcement  
Department of Homeland Security  
Office: (404) 893-[redacted] (b)(6), (b)(7)c

---

**From:** [redacted] (b)(6), (b)(7)c  
**Sent:** Monday, June 18, 2012 8:54 AM  
**To:** [redacted] (b)(6), (b)(7)c  
**Cc:**  
**Subject:** RE: A Message from Director Morton

[redacted] (b)(6), (b)(7)c Our guys are asking for guidance on the following, so I'm hoping HQ will provide it to you

during the FOD meetings at the NSA:

1. Are the IRCs going to stop putting detainees on the cases that we've been directed not to put into removal proceedings under the new criteria?
2. Are we still required to create an Event in ENFORCE for EVERY case referred to us by LESC that we don't place into removal proceedings, including the cases that fit this new criteria?

(b)(6), (b)(7)c

Deputy Field Office Director  
 (responsible for the state of Georgia, except the Stewart Detention Center)  
 Atlanta Field Office  
 Enforcement and Removal Operations  
 U. S. Immigration and Customs Enforcement  
 Department of Homeland Security  
 Office: (404) 898-(b)(6), (b)(7)c

**From:** (b)(6), (b)(7)c  
**Sent:** Monday, June 18, 2012 8:10 AM  
**To:** (b)(6), (b)(7)c  
**Cc:** (b)(6), (b)(7)c  
**Subject:** RE: A Message from Director Morton

(b)(6), (b)(7)c

Just FYI, over the weekend Lexington encountered 8 Foreign Born admits, of the 8, I had 1 served with an NTA 20000 bond, he had 2 convictions for over 3 years of time. The other I will have a NTA/OREC served, he had a prior VR, but has a 2 USC children in the US. I have the officers saving all interview sheets for the ones that no action is taken. My question is, in regards to Secure Communities, are we just to enter the encounter, and put in no action taken, and question 2 Is the BDC notified to better screen after hour calls so that unnecessary detainees are placed, that the field will just have to clean up. I think it's important that they are on the same sheet as the field, or it could create some issues for us all.

Also (b)(6), (b)(7)c and (b)(6), (b)(7)c did a Mini-Surge at Horry County over the weekend, they encountered 8 individuals, and placed no detainees because of the new guidance.

Thanks,

(b)(6), (b)(7)c

**From:** (b)(6), (b)(7)c  
**Sent:** Friday, June 15, 2012 9:51 PM  
**To:** (b)(6), (b)(7)c  
(b)(6), (b)(7)c  
**Cc:** (b)(6), (b)(7)c  
**Subject:** Re: A Message from Director Morton

There's no option this time - direct order from DHS Secretary. If the undocumented alien falls within the described parameters, he/she is not to be placed in removal proceedings.

(b)(6), (b)(7)c

Deputy Field Office Director  
Atlanta Field Office  
Enforcement and Removal Operations  
Immigration and Customs Enforcement

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Sent from wireless BlackBerry device

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**From:** (b)(6), (b)(7)c

**Sent:** Friday, June 15, 2012 09:41 PM

**To:**

(b)(6), (b)(7)c

(b)(6), (b)(7)c

**Cc:**

**Subject:** Re: A Message from Director Morton

(b)(6), (b)(7)c

In discussing the previous memos and policies with the 287(g) Sheriffs it has been made crystal clear to me that the Sheriff's are not in agreement with not processing these cases.

The issue, as explained to me, is that they do not want to accept the responsibility of not processing a removable alien and then that alien going out and injuring someone or committing a major felony after release.

As I have been told, if that happens, even if it's an "ICE" policy, the media will spin it, put the blame on the Sheriff's Offices, not ICE, and try to hold them accountable.

The Sheriffs are politicians too, have elections and do not want what they consider to be negative publicity.

In a nutshell, they prefer for the 287(g) DIOs to process all removable aliens and then if ICE decides to cancel the NTA, etc or release the alien. It was an ICE decision, not the SO's.

With that said, how do we proceed?? Again, I know it's politics but the 287(g) sheriff's are not going to "take a bullet" for the Administration.

I'll give direction as required but need to know how to approach this issue.

Thanks,

(b)(6), (b)(7)c

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**From:** (b)(6), (b)(7)c

**Sent:** Friday, June 15, 2012 06:46 PM

**To:**

(b)(6), (b)(7)c

(b)(6), (b)(7)c

**Cc:** (b)(6), (b)(7)c

**Subject:** FW: A Message from Director Morton

AFODs and Supervisors (b)(6), (b)(7)c I have not sent to the individual supervisors in your areas, please get this info to them ASAP and ensure all processing over the weekend, including 287g and CAP surges, is in compliance),

Please see below e-mails and attachments for further info.

1. We are not to take any action – either to REMOVE or to grant deferred action – to anyone under this policy at this time. REVIEW ANY CASE SCHEDULED FOR REMOVAL TO ENSURE THEY DO NOT FALL WITHIN THE CRITERIA. If they do, do NOT remove them from the U.S.
2. Do not take into custody ANY NEW CASES (including CBP/HSI cases) that meet the criteria.

The criteria:

An individual is covered by the Secretary's memorandum if the individual—

- came to the United States under the age of sixteen;
- is not above the age of thirty;
- has continuously resided in the United States for at least five years preceding the date of this memorandum and is present in the United States on the date of this memorandum;
- is currently in school, has graduated from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
- has not been convicted of a felony offense, a significant misdemeanor offense, or multiple misdemeanor offenses; and
- does not otherwise pose a threat to national security or public safety.

If there are any questions over the weekend, please elevate them to me. For now, I think it is reasonable to consider misdemeanor convictions such as DUI, theft, battery, fraud, etc., as “significant misdemeanors.”

(b)(6), (b)(7)c (as acting FOD)

(b)(6), (b)(7)c

Deputy Field Office Director

(responsible for the state of Georgia, except the Stewart Detention Center)

Atlanta Field Office

Enforcement and Removal Operations

U. S. Immigration and Customs Enforcement

Department of Homeland Security

Office: (404) 893 (b)(6), (b)(7)c

Cell: 404-925 (b)(6), (b)(7)c 404-694 (b)(6), (b)(7)c

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**From:** (b)(6), (b)(7)c

**Sent:** Friday, June 15, 2012 6:20 PM

**To:** (b)(6), (b)(7)c

**Subject:** Fw: A Message from Director Morton



Final guidance  
Felicia Skinner, FOD ATL

**From:** (b)(6), (b)(7)c  
**Sent:** Friday, June 15, 2012 06:08 PM

**To:** (b)(6), (b)(7)c (b)(6), (b)(7)c

**Cc:**  
**Subject:** RE: A Message from Director Morton

Attached is the final guidance.

As directed in the prior email, , if you have a detainee that may be prima facie eligible for deferred action under this policy, please do not taken action at this time – to include removal. Please provide as soon as practicable an executive summary of the detainee’s criminal and immigration history and any factors that warrant a favorable exercise to HQ Field Ops for review and approval.

Also – please ensure we are not taking into custody, to include CBP cases, aliens that are covered by this policy.

David J. Venturella  
Assistant Director-Field Operations  
Office of Enforcement & Removal Operations

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+++++ earlier e-mails +++++

**From:** (b)(6), (b)(7)c  
**Sent:** Friday, June 15, 2012 5:54 PM  
**To:** (b)(6), (b)(7)c  
**Subject:** Fw: A Message from Director Morton

Please pass on to sups and managers and ensure detention is onboard with cbp  
Felicia Skinner, FOD ATL

**From:** (b)(6), (b)(7)c  
**Sent:** Friday, June 15, 2012 05:52 PM

**To:** (b)(6), (b)(7)c (b)(6), (b)(7)c Cyr, id

**Cc:**  
**Subject:** RE: A Message from Director Morton

We are still drafting guidance but in the interim, if you have any detainees that may be prima facie eligible for deferred action under this policy, please do not taken action at this time. Please provide an executive summary of the detainee's criminal and immigration history and any factors that warrant a favorable exercise to HQ Field Ops for review and approval.

Also – please ensure we are not taking into custody, to include CBP cases, aliens that are covered by this policy.

Thanks

David J. Venturella  
Assistant Director-Field Operations  
Office of Enforcement & Removal Operations

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**From:** Venturella, David  
**Sent:** Friday, June 15, 2012 10:33 AM  
**To:** (b)(6), (b)(7)c  
**Subject:** FW: A Message from Director Morton  
**Importance:** High

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**From:** Venturella, David  
**Sent:** Friday, June 15, 2012 10:32 AM  
**To:** (b)(6), (b)(7)c  
(b)(6), (b)(7)c  
**Subject:** FW: A Message from Director Morton  
**Importance:** High

All – we are working draft implementation instruction to address this unexpected announcement. We will share those with you this afternoon and would expect discussion at NSA.

David J. Venturella  
Assistant Director-Field Operations  
Office of Enforcement & Removal Operations

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either in written or verbal form.

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**From:** ICE-Broadcast  
**Sent:** Friday, June 15, 2012 9:56 AM  
**Subject:** A Message from Director Morton  
**Importance:** High

## **A Message from Director Morton**

**To all ICE employees**  
**June 14, 2012**

### **Secretary Napolitano's Memorandum Concerning the Exercise of Prosecutorial Discretion for Certain Removable Individuals Who Entered the United States as a Child**

Today the Secretary of Homeland Security issued the attached memorandum concerning the exercise of prosecutorial discretion for certain removable individuals who entered the United States as a child. Effective immediately, ICE agents and officers are instructed to exercise prosecutorial discretion in a manner that aligns with the Secretary's memorandum. The memorandum states that, with respect to individuals who meet the criteria outlined below, ICE agents and officers should immediately exercise their discretion, on an individual basis, in order to prevent these low priority individuals from being placed into removal proceedings or removed from the United States.

An individual is covered by the Secretary's memorandum if the individual—

- came to the United States under the age of sixteen;
- is not above the age of thirty;
- has continuously resided in the United States for at least five years preceding the date of this memorandum and is present in the United States on the date of this memorandum;
- is currently in school, has graduated from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
- has not been convicted of a felony offense, a significant misdemeanor offense, or multiple misdemeanor offenses; and
- does otherwise pose a threat to national security or public safety.

ICE has also been directed to apply the Secretary's policy, on a case by case basis, to individuals whose cases are pending before the Executive Office for Immigration Review and can demonstrate that they meet the above noted criteria. To better facilitate this process, ICE has been further directed to implement a process within sixty days that allows individuals whose cases are pending before the Executive Office for Immigration Review to request a review of their cases through the ICE Public Advocate.

Additional guidance on the Secretary's memorandum will be issued as soon as possible. In the meantime, if ICE personnel have questions about the exercise of prosecutorial discretion described in the Secretary's memorandum, they should contact their supervisor or local chief counsel's office.

John Morton  
Director

U.S. Immigration and Customs Enforcement

**From:** (b)(6), (b)(7)c  
**To:** (b)(6), (b)(7)c  
**Cc:**  
**Subject:** FW: 287(g) press, reports, stats; FW: Stats/ICE Web Site  
**Date:** Thursday, January 21, 2010 2:10:57 PM  
**Attachments:** [287g - DHS Asst Sec for ICE John Morton defends processing non-felon undocumented aliens ICE official.doc](#)  
[287\(g\) MASTER Stats Nationwide 10-01-2009 thru 10-25-2009.pdf](#)  
[287g Report from NGO-Center for Immigration Studies Oct 2009.pdf](#)  
[287g a/c 12-30-09 jail pop down Gwinnett says immigration program is working.doc](#)  
[287g impact 1-12-2010 Gwinnett Daily Post.doc](#)

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Can't remember which one of you does 287(g). Below and attached is info I sent to the Georgia 287(g) programs. I had their poc info since I worked with them as AFOD. I don't have contact info for the NC and SC programs, but please consider forwarding this info to them, just in case it is of interest.

(b)(6), (b)(7)c  
Deputy Field Office Director  
Immigration and Customs Enforcement  
Detention and Removal Operations  
Atlanta Field Office (GA, NC, SC)  
404-893 (b)(6), (b)(7)c

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**From:** (b)(6), (b)(7)c  
**Sent:** Thursday, January 21, 2010 2:09 PM  
**To:** (b)(6), (b)(7)c  
**Cc:** (b)(6), (b)(7)c  
**Subject:** 287(g) press, reports, stats; FW: Stats/ICE Web Site

All:

Somehow I overlooked the e-mail below from ICE OSLC from back in October (just a little bit behind w/ the e-mail). It has some nationwide stats (now out of date – they were from 10/01/2009 to 10/25/2009) and an attachment with a report from an NGO (Center for Immigration Studies) that I hadn't seen before. I am also attaching a few press clippings that you may or may not have seen, and wanted to particularly highlight the support expressed by DHS Assistant Secretary for ICE, John Morton, in today's Arizona Republic article.

I recently attended what seemed to me to be a very helpful meeting hosted by Sheriff Chitwood in Whitfield County, with the DA, judges, clerks of court, and the public defender, just to discuss procedures related to immigration holds and their impact on prosecutions, bonds, criminal proceedings, and so forth. If any other 287(g) programs are interested in having such a meeting, we'd be happy to have someone attend.

Thank you as always for your participation in 287(g). Please feel free to contact me at any time if there are any issues or concerns.

(b)(6), (b)(7)c

(b)(6), (b)(7)c  
Deputy Field Office Director  
Immigration and Customs Enforcement  
Detention and Removal Operations  
Atlanta Field Office (GA, NC, SC)  
404-893 (b)(6), (b)(7)c

## ICE official: Migrants in U.S. without criminal records cannot be ignored

by **Daniel González** - Jan. 21, 2010 12:00 AM

The Arizona Republic

A top U.S. immigration-enforcement official on Wednesday defended a federal program that lets local jail officials from the Maricopa County Sheriff's Office check the immigration status of people booked into jail.

During a large protest on Saturday in Phoenix that drew 10,000 people, immigrant-rights advocates called on the Department of Homeland Security to end the program, saying some Valley police officers are engaging in racial profiling by arresting Latinos for minor crimes in order to check their immigration status during the booking process.

But John Morton, the assistant secretary for Immigration and Customs Enforcement, said that is "not in practice what we have seen in the program" known as 287 (g).

Furthermore, he said that while the agency places a priority on arresting illegal immigrants who commit serious crimes, it also cannot turn "a blind eye to people who are here unlawfully simply because they don't have a criminal record."

Morton said the program has been consistent in meeting the agency's priority of arresting illegal immigrants who commit serious crimes.

"Sixty nine percent of the people we receive in Maricopa County have been convicted of Level 1 and Level 2 offenses, which are serious felony offenses, drug trafficking, assaults, rape," Morton said during a meeting with editors and reporters at *The Arizona Republic*.

More than 90 percent of the cases presented to the U.S. Attorney in Arizona involving people who committed a felony crime of re-entering the U.S. after deportation from the Maricopa County jail, Morton added.

In October, Morton refused to renew a contract between ICE and Maricopa County Sheriff Joe Arpaio that let deputies arrest immigration violators on the street.

ICE said it didn't renew the contract because Arpaio's controversial crime sweeps were inconsistent with the agency's priorities of focusing on criminals.

The new contract, however, left intact the jail program allowing Sheriff's deputies to check immigration status of all people booked into the jail.

Posted: 8:34 PM Jan 12, 2010

## Illegal immigrant, back in jail, now faces deportation

Thanks to the 287(g) program, officials said, an illegal alien who was released from jail after being arrested for burglary and battery in March — now accused of a New Year's Day aggravated assault — will face deportation.  
**Gwinnett Daily Post**

**Reporter:** [By Heath Hamacher](#)

LAWRENCEVILLE — The saying goes, "Fool me once, shame on you. Fool me twice, shame on me." Thanks to the 287(g) program, officials said, an illegal alien who was released from jail after being arrested for burglary and battery in March — now accused of a New Year's Day aggravated assault — will face deportation.

According to reports, 21-year-old Juan Manuel Catalan, of Buford, was arrested Monday at his Buford home for allegedly striking a man on the head with a knife in the Jan. 1 incident.

A Gwinnett County Sheriff's Department spokeswoman said Catalan, a Mexico native, was found inside the Power Avenue apartment hiding in a back bedroom.

On March 17, Catalan was arrested for simple battery and robbery but posted an \$8,100 bond two days later, records show.

At that time, the 287(g) program had yet to be implemented (it began on Nov. 16) and only one Immigration and Customs Enforcement agent was on hand to screen inmates randomly.

Now, 18 deputies trained in the program screen everyone who is booked into the facility.

Conway believes the relatively new program is paramount in preventing illegals from slipping through the cracks of the judicial system.

"This is exactly why we needed 287(g)," said Sheriff Butch Conway. "It's doing what it is designed to do: identifying criminals that are illegally here in our country."

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**From:** (b)(6), (b)(7)c

**Sent:** Thursday, October 29, 2009 2:49 PM

**To:**

(b)(6), (b)(7)c

(b)(6), (b)(7)c

**Subject:** Stats/ICE Web Site

All

OSLC has updated its portion of the ICE web site; this site can be accessed by our 287g partners and the public. All the signed MOA's should be accessible via this web page. You will also notice a success stories portion on the web page; help OSLC recognize the hard work that TFO's and JEO's are doing in the field by submitting success stories in your AOR to the OSLC. I have also attached a 287 report that some might find of interest.

[http://www.ice.gov/pi/news/factsheets/section287\\_g.htm](http://www.ice.gov/pi/news/factsheets/section287_g.htm)

**Attached are the stats as of October 25, 2009 for aliens encountered, aliens taken into ICE custody, and aliens removed/granted VR by 287(g)-trained officers.**

**287(g) officers have encountered and interviewed the following number of foreign nationals:**

**FY09 Total: 62,727**

**FY10 Total: 3,723**

**Of the foreign nationals encountered and interviewed, the following numbers have been taken into ICE custody or placed into Removal Proceedings while still in State or Local custody:**

**Program Total: 137,261**

**FY09 Total: 59,339**

**FY10 Total: 3,294**

**Of the foreign nationals taken into ICE custody or placed into Removal Proceedings the following numbers have been removed from the United States or granted Voluntary Return to their home country:**

**Program Total: 83,736 departed/VR (61% of the 137,261 aliens taken into ICE custody or placed into Removal Proceedings)**

**FY09 Total: 32,896 departed/VR (55% of the 59,339 aliens taken into ICE custody or placed into Removal Proceedings)**

**FY10 Total: 325 departed/VR (10% of the 3,294 aliens taken into ICE custody or placed into Removal Proceedings)**

Any questions or concerns please let me know.

(b)(6), (b)(7)c

287(g) National Program Manager  
Office of State and Local Coordination  
U.S. Immigration and Customs Enforcement  
500 12th Street SW Office 5024  
Washington, DC 20024

202-732- (O)  
417-839- (b)(6), (b)(7)c (C)

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# ICE official: Migrants in U.S. without criminal records cannot be ignored

by **Daniel González** - Jan. 21, 2010 12:00 AM

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But John Morton, the assistant secretary for Immigration and Customs Enforcement, said that is "not in practice what we have seen in the program" known as 287 (g).

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Morton said the program has been consistent in meeting the agency's priority of arresting illegal immigrants who commit serious crimes.

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More than 90 percent of the cases presented to the U.S. Attorney in Arizona involving people who committed a felony crime of re-entering the U.S. after deportation from the Maricopa County jail, Morton added.

In October, Morton refused to renew a contract between ICE and Maricopa County Sheriff Joe Arpaio that let deputies arrest immigration violators on the street.

ICE said it didn't renew the contract because Arpaio's controversial crime sweeps were inconsistent with the agency's priorities of focusing on criminals.

The new contract, however, left intact the jail program allowing Sheriff's deputies to check immigration status of all people booked into the jail.



## 287(g)-Identified Aliens for Removal

No. of States Reporting: 23

No. of Offices Reporting: 61

State	287(g) Office	2006	2007	2008				2009	2010	2010	Program
		Total	Total	Total	Jul	Aug	Sep	Total	Oct	Total	Total
<b>AL</b>					2			7			7
	AL Department of Public Safety							2			2
	Etowah County Sheriff's Office				2			5			5
<b>AR</b>			8	878	45	52	39	690	27	27	1,603
	Benton County Sheriff's Office		3	420	30	16	20	276	5	5	704
	City of Springdale Police Department			140	6	14	3	146	2	2	288
	Rogers Police Department		2	103	3	3	5	99	6	6	210
	Washington County Sheriff's Office AR		3	215	6	19	11	169	14	14	401
<b>AZ</b>		418	5,212	16,298	1,435	1,370	957	15,742	790	790	38,460
	AZ Department of Corrections	418	1,913	2,485	352	321	224	3,672	245	245	8,733
	AZ Department of Public Safety		1	2			4	32	1	1	36
	Maricopa County Sheriff's Office		3,298	13,504	1,038	979	708	11,492	526	526	28,820
	Pinal County Sheriff's Office			47	23	37	10	214	10	10	271
	Yavapai County Sheriff's Office			260	22	33	11	332	8	8	600
<b>CA</b>		5,219	12,148	11,590	1,097	973	787	12,579	702	702	42,238
	Los Angeles County Sheriff's Office	3,650	4,544	3,854	416	286	262	4,714	239	239	17,001
	Orange County Sheriff's Office		3,559	4,168	277	220	174	3,274	148	148	11,149
	Riverside County Sheriff's Office	338	2,116	1,545	133	106	95	1,717	90	90	5,806
	San Bernardino County Sheriff's Office	1,231	1,929	2,023	271	361	256	2,874	225	225	8,282
<b>CO</b>			198	963	95	97	74	970	47	47	2,178
	CO Department of Public Safety		198	787	62	78	56	674	33	33	1,692
	El Paso County Sheriff's Office			176	33	19	18	296	14	14	486
<b>FL</b>		13	21	832	168	174	110	2,163	84	84	3,113
	Bay County Sheriff's Office			7	1	1	5	135	2	2	144
	Brevard County Sheriff's Office				20	6		96			96
	Collier County Sheriff's Office	13	18	813	84	95	55	1,256	46	46	2,146
	FL Department of Law Enforcement		3	12	2	3	2	14	1	1	30
	Jacksonville Sheriff's Office				40	52	46	516	35	35	551
	Manatee County Sheriff's Office				21	17	2	146			146
<b>GA</b>			128	4,734	306	347	303	4,047	269	269	9,178
	Cobb County Sheriff's Office		128	3,750	194	220	210	2,585	187	187	6,650
	GA Department of Public Safety			9				14			23
	Hall County Sheriff's Office			873	86	108	69	1,070	67	67	2,010
	Whitfield County Sheriff's Office			102	26	19	24	378	15	15	495



## 287(g)-Identified Aliens for Removal

State 287(g) Office	2006	2007	2008				2009	2010	2010	Program
	Total	Total	Total	Jul	Aug	Sep	Total	Oct	Total	Total
<b>MA</b>			<b>77</b>	<b>8</b>	<b>4</b>	<b>1</b>	<b>75</b>			<b>152</b>
MA Department of Corrections			77	8	4	1	75			152
<b>MD</b>			<b>232</b>	<b>26</b>	<b>22</b>	<b>19</b>	<b>300</b>	<b>14</b>	<b>14</b>	<b>546</b>
Frederick County Sheriff's Office			232	26	22	19	300	14	14	546
<b>MN</b>						<b>2</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>5</b>
MN Department of Public Safety						2	3	2	2	5
<b>MO</b>			<b>1</b>		<b>2</b>		<b>4</b>			<b>5</b>
MO State Highway Patrol			1		2		4			5
<b>NC</b>	<b>518</b>	<b>2,695</b>	<b>4,067</b>	<b>557</b>	<b>555</b>	<b>411</b>	<b>6,369</b>	<b>329</b>	<b>329</b>	<b>13,978</b>
Alamance County Sheriff's Office		299	523	31	25	20	387	11	11	1,220
Cabarrus County Sheriff's Office			221	34	36	34	293	12	12	526
Cumberland County Sheriff's Office			27	16	12	15	105	9	9	141
Durham Police Department			33	2	3	3	27	1	1	61
Gaston County Sheriff's Office		195	402	31	29	27	346	11	11	954
Henderson County Sheriff's Office			104	48	46	15	520	19	19	643
Mecklenburg County Sheriff's Office	518	2,201	2,216	208	198	165	2,479	149	149	7,563
Wake County Sheriff's Office			541	187	206	132	2,212	117	117	2,870
<b>NH</b>			<b>5</b>							<b>5</b>
Hudson City Police Department			5							5
<b>NJ</b>				<b>23</b>	<b>17</b>	<b>15</b>	<b>144</b>	<b>13</b>	<b>13</b>	<b>157</b>
Hudson County Department of Corrections				23	17	15	144	13	13	157
<b>NM</b>			<b>5</b>							<b>5</b>
NM Department of Corrections			5							5
<b>NV</b>				<b>188</b>	<b>108</b>	<b>125</b>	<b>1,984</b>	<b>91</b>	<b>91</b>	<b>2,075</b>
Las Vegas Metropolitan Police Dept				188	108	125	1,984	91	91	2,075
<b>OH</b>			<b>356</b>	<b>27</b>	<b>11</b>	<b>8</b>	<b>365</b>	<b>9</b>	<b>9</b>	<b>730</b>
Butler County Sheriff's Office			356	27	11	8	365	9	9	730
<b>OK</b>		<b>40</b>	<b>1,353</b>	<b>77</b>	<b>83</b>	<b>51</b>	<b>1,101</b>	<b>50</b>	<b>50</b>	<b>2,544</b>
Tulsa County Sheriff's Office		40	1,353	77	83	51	1,101	50	50	2,544
<b>SC</b>			<b>363</b>	<b>29</b>	<b>20</b>	<b>25</b>	<b>398</b>	<b>9</b>	<b>9</b>	<b>770</b>
Beaufort County Sheriff's Office			11		2	6	74			85
York County Sheriff's Office			352	29	18	19	324	9	9	685



## 287(g)-Identified Aliens for Removal

State 287(g) Office	2006	2007	2008				2009	2010	2010	Program
	Total	Total	Total	Jul	Aug	Sep	Total	Oct	Total	Total
<b>TN</b>		1,739	2,650	160	177	122	2,247	141	141	6,777
Davidson County Sheriff's Office		1,739	2,650	160	175	121	2,225	140	140	6,754
TN Department of Safety					2	1	22	1	1	23
<b>TX</b>			483	830	884	709	8,759	630	630	9,872
Carrollton Police Department				1		5	6	2	2	8
Harris County Sheriff's Office			483	829	884	704	8,753	628	628	9,864
<b>UT</b>				1		1	96			96
Washington County Sheriff's Office UT							7			7
Weber County Sheriff's Office				1		1	89			89
<b>VA</b>		158	1,226	99	94	88	1,296	87	87	2,767
City of Manassas Police Department			1							1
Herndon Police Department			72	7		6	77	1	1	150
Loudoun County Sheriff's Office			3	3	9		63	5	5	71
Prince William County Police Department			30	3	3	1	68	2	2	100
Prince William County Sheriff's Office			2							2
Prince William-Manassas Adult Detention Center		114	930	78	78	79	984	63	63	2,091
Rockingham County Sheriff's Office		32	163	8	4	2	99	8	8	302
Shenandoah County Sheriff's Office		12	25				5	8	8	50
<b>Program Total</b>	<b>6,168</b>	<b>22,347</b>	<b>46,113</b>	<b>5,173</b>	<b>4,990</b>	<b>3,847</b>	<b>59,339</b>	<b>3,294</b>	<b>3,294</b>	<b>137,261</b>

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## 287(g)-Identified Aliens Departed/VR

No. of States Reporting: 23

No. of Offices Reporting: 61

State	287(g) Office	2006	2007	2008				2009	2010	2010	Program
		Total	Total	Total	Jul	Aug	Sep	Total	Oct	Total	Total
<b>AL</b>					1			5			5
	AL Department of Public Safety							2			2
	Etowah County Sheriff's Office				1			3			3
<b>AR</b>			4	427	6	6		332			763
	Benton County Sheriff's Office		2	200	4	3		119			321
	City of Springdale Police Department			59	1	1		73			132
	Rogers Police Department		1	37	1			47			85
	Washington County Sheriff's Office AR		1	131		2		93			225
<b>AZ</b>		240	3,565	12,423	543	349	142	7,498	99	99	23,825
	AZ Department of Corrections	240	987	748	12	5	1	582			2,557
	AZ Department of Public Safety		1	2				25	1	1	29
	Maricopa County Sheriff's Office		2,577	11,406	495	314	137	6,540	88	88	20,611
	Pinal County Sheriff's Office			39	17	7	4	120	7	7	166
	Yavapai County Sheriff's Office			228	19	23		231	3	3	462
<b>CA</b>		3,469	8,478	7,500	580	433	182	7,630	120	120	27,197
	Los Angeles County Sheriff's Office	2,510	3,220	2,682	231	111	64	3,010	43	43	11,465
	Orange County Sheriff's Office		2,604	2,733	140	94	33	2,013	27	27	7,377
	Riverside County Sheriff's Office	207	1,403	884	61	41	24	992	12	12	3,498
	San Bernardino County Sheriff's Office	752	1,251	1,201	148	187	61	1,615	38	38	4,857
<b>CO</b>			121	678	57	47	16	647	8	8	1,454
	CO Department of Public Safety		121	605	45	44	16	513	8	8	1,247
	El Paso County Sheriff's Office			73	12	3		134			207
<b>FL</b>			7	582	77	51	8	1,357	6	6	1,952
	Bay County Sheriff's Office				1	1		99			99
	Brevard County Sheriff's Office				10	4		57			57
	Collier County Sheriff's Office		5	574	36	29	6	850			1,429
	FL Department of Law Enforcement		2	8	1			3			13
	Jacksonville Sheriff's Office				21	12	2	267	6	6	273
	Manatee County Sheriff's Office				8	5		81			81
<b>GA</b>			88	2,970	142	77	16	2,085	11	11	5,154
	Cobb County Sheriff's Office		88	2,359	76	27	10	1,151	8	8	3,606
	GA Department of Public Safety			3				5			8
	Hall County Sheriff's Office			565	50	41	3	694	3	3	1,262
	Whitfield County Sheriff's Office			43	16	9	3	235			278



## 287(g)-Identified Aliens Departed/VR

State 287(g) Office	2006	2007	2008				2009	2010	2010	Program
	Total	Total	Total	Jul	Aug	Sep	Total	Oct	Total	Total
<b>MA</b>			<b>2</b>				<b>3</b>			<b>5</b>
MA Department of Corrections			2				3			5
<b>MD</b>			<b>87</b>	<b>9</b>	<b>1</b>		<b>123</b>			<b>210</b>
Frederick County Sheriff's Office			87	9	1		123			210
<b>MN</b>										
MN Department of Public Safety										
<b>MO</b>			<b>1</b>		<b>1</b>		<b>1</b>			<b>2</b>
MO State Highway Patrol			1		1		1			2
<b>NC</b>	<b>296</b>	<b>1,620</b>	<b>2,648</b>	<b>216</b>	<b>82</b>	<b>2</b>	<b>3,614</b>	<b>4</b>	<b>4</b>	<b>8,182</b>
Alamance County Sheriff's Office		228	367	10	2		177			772
Cabarrus County Sheriff's Office			122	8	8		136			258
Cumberland County Sheriff's Office			2	10	3		48			50
Durham Police Department			15		1		13			28
Gaston County Sheriff's Office		112	310	12	6		203	2	2	627
Henderson County Sheriff's Office			40	35	16		387			427
Mecklenburg County Sheriff's Office	296	1,280	1,598	73	17	2	1,461	2	2	4,637
Wake County Sheriff's Office			194	68	29		1,189			1,383
<b>NH</b>			<b>3</b>							<b>3</b>
Hudson City Police Department			3							3
<b>NJ</b>				<b>8</b>	<b>1</b>		<b>40</b>			<b>40</b>
Hudson County Department of Corrections				8	1		40			40
<b>NM</b>			<b>1</b>							<b>1</b>
NM Department of Corrections			1							1
<b>NV</b>				<b>87</b>	<b>46</b>	<b>16</b>	<b>1,233</b>	<b>9</b>	<b>9</b>	<b>1,242</b>
Las Vegas Metropolitan Police Dept				87	46	16	1,233	9	9	1,242
<b>OH</b>			<b>294</b>	<b>21</b>	<b>9</b>	<b>2</b>	<b>315</b>	<b>1</b>	<b>1</b>	<b>610</b>
Butler County Sheriff's Office			294	21	9	2	315	1	1	610
<b>OK</b>		<b>24</b>	<b>1,165</b>	<b>66</b>	<b>47</b>	<b>22</b>	<b>888</b>	<b>12</b>	<b>12</b>	<b>2,089</b>
Tulsa County Sheriff's Office		24	1,165	66	47	22	888	12	12	2,089
<b>SC</b>			<b>247</b>	<b>17</b>	<b>1</b>		<b>252</b>			<b>499</b>
Beaufort County Sheriff's Office			10				47			57
York County Sheriff's Office			237	17	1		205			442
<b>TN</b>		<b>953</b>	<b>1,710</b>	<b>39</b>	<b>20</b>		<b>1,160</b>	<b>1</b>	<b>1</b>	<b>3,824</b>
Davidson County Sheriff's Office		953	1,710	39	19		1,152	1	1	3,816
TN Department of Safety					1		8			8



## 287(g)-Identified Aliens Departed/VR

State 287(g) Office	2006	2007	2008				2009	2010	2010	Program
	Total	Total	Total	Jul	Aug	Sep	Total	Oct	Total	Total
<b>TX</b>			285	414	298	60	5,118	54	54	5,457
Carrollton Police Department				1		3	4			4
Harris County Sheriff's Office			285	413	298	57	5,114	54	54	5,453
<b>UT</b>							72			72
Washington County Sheriff's Office UT							7			7
Weber County Sheriff's Office							65			65
<b>VA</b>		50	577	24	9	1	523			1,150
City of Manassas Police Department										
Herndon Police Department			52	4			47			99
Loudoun County Sheriff's Office				2	1		36			36
Prince William County Police Department			15	2			43			58
Prince William County Sheriff's Office			1							1
Prince William-Manassas Adult Detention Center		28	432	16	8		363			823
Rockingham County Sheriff's Office		18	68			1	32			118
Shenandoah County Sheriff's Office		4	9				2			15
<b>Program Total</b>	<b>4,005</b>	<b>14,910</b>	<b>31,600</b>	<b>2,307</b>	<b>1,478</b>	<b>467</b>	<b>32,896</b>	<b>325</b>	<b>325</b>	<b>83,736</b>

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## The 287(g) Program Protecting Home Towns and Homeland

By Jessica M. Vaughan and James R. Edwards, Jr.

Shortly after midnight on September 9, 2001, Maryland state trooper Joseph Catalano pulled over a red Mitsubishi rental car traveling 90 mph in a 65 mph zone on I-95 north of Baltimore. The driver, Ziad Jarrah, had a Florida driver's license and quietly accepted the \$270 fine issued by Catalano before continuing on to join his friends at a hotel in New Jersey. Two days later, Jarrah boarded United Airlines flight 93, which he would later pilot into a field near Shanksville, Pennsylvania, killing everyone aboard.

In 2001, Trooper Catalano had no way of knowing that Jarrah was an illegal alien who had overstayed his business visitor visa. But in the years since 9/11, dozens of state and local law enforcement agencies have been able to join ranks with federal immigration authorities under the auspices of the 287(g) program to help identify and remove foreign nationals who commit crimes or otherwise pose a threat to our well-being. These state and local agencies are making a significant contribution to public safety and homeland security, not just in their jurisdictions, but for us all.

Yet the Obama administration, in a move consistent with other recent steps to scale back immigration law enforcement, recently announced its intent to impose new rules for the 287(g) program that unduly constrain the local partners and could allow too many alien scofflaws identified by local agencies to remain here. But even with these changes, which seem to be based on unsubstantiated criticism from ethnic and civil liberties groups, the 287(g) program still remains an effective tool in immigration law enforcement and local crime-fighting. To ensure its continued success, Congress should provide additional funding and guidance to Immigration and Customs Enforcement (ICE), so that the program continues to meet the needs of local agency partners and the communities they protect.

This *Backgrounder* examines the 287(g) program's history and its status. How is it being used? Which law enforcement agencies participate? What has the 287(g) program's effect been on the foreign-born criminal element? We interviewed participating local law enforcement agencies (LEAs), reviewed statistics and reports provided by local LEAs, analyzed data provided by ICE through a FOIA request, and scoured news reports on the program. We begin by recounting briefly the program's origin, then describe its application and results. We conclude by offering a number of recommendations. Between those bookends is the story of the 287(g) program's successes, challenges, and potential.

Some of our findings:

- About 1,000 officers from 67 law enforcement agencies have been trained and participate in the program. With 9 new agencies joining and a handful of agencies dropping out in 2009, the total number of participating agencies as of October 2009 is 73.
- 287(g) officers lodged immigration charges on more than 81,000 illegal or criminal aliens between January 2006 and November 2008, according to data provided to us by ICE.
- In 2008, the number of 287(g) arrests (45,368) was equal to one-fifth of all criminal aliens identified by ICE in prisons and jails nationwide that year (221,085). The program has flagged a large number of known serious and/or violent offenders, as well as some low-level offenders still at the bottom of the criminal behavior escala-

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## Center for Immigration Studies

tor. Illegal aliens targeted by the program have been identified as a result of involvement in local law-breaking in addition to immigration law-breaking.

- While 287(g) agencies use the authority mainly to identify and process illegal aliens who have committed additional crimes, Congress never intended the program to be limited to that use. Lawmakers intended for local agency partners to use the authority for local law enforcement priorities and according to local needs, which may or may not be the same as federal priorities.
- Participating agencies credit the 287(g) program as a major factor in reduced local crime rates, smaller inmate populations, and lower criminal justice costs.
- 287(g) is cost-effective — much less expensive than other criminal alien identification programs such as Secure Communities and Fugitive Operations. For example, in 2008 ICE spent \$219 million to remove 34,000 fugitive aliens (mostly criminals). In 2008, ICE was given \$40 million for 287(g), which produced more than 45,000 arrests of aliens who were involved in state and local crimes. In Harris County, Texas, the billion-dollar ICE Secure Communities interoperability program found about 1,718 removable aliens in its first six months beginning late in 2008; meanwhile the locally paid 287(g) officers in the same jail system charged about 5,000 criminal aliens over the same time period.
- 287(g) is a force multiplier. In 2008, the Colorado state 287(g) unit alone made 777 immigration arrests. In that same year the entire ICE investigations office based in Denver, which covers all of Colorado and several other states, made a total of 1,594 arrests. In Maricopa County, Arizona, the local ICE detention and removal manager supervises five ICE deportation agents, who are supplemented by 64 additional locally paid county jail 287(g) officers who also identify and process criminal aliens.
- The largest number of agreements have been signed for correctional 287(g) programs. These programs were responsible for 91 percent of the 287(g) arrests over the period we studied.
- The task force/investigative programs provide equally important crime-fighting benefits and are a useful tool to address such illegal immigration-related crime problems as alien smuggling, drugs, street gangs, and identity theft.
- The Colorado, Arizona, and Alabama 287(g) programs have boosted ICE efforts to combat alien smuggling, which has been neglected since the agency's formation.
- Notwithstanding allegations from immigrant and civil liberties advocates, there have been no confirmed instances of racial profiling, discrimination, or other abuse of authority under the 287(g) program. There is no evidence whatsoever of a “chilling effect” on crime reporting in the 287(g) jurisdictions.
- The waiting list for 287(g) is long — reportedly one to three years from the time of request to join until implementation. A number of agencies have launched interim programs in cooperation with ICE that can put a significant dent in the criminal alien population while they are waiting. In Gwinnett County, Ga., such a preliminary surge screening operation of interviews at the jail in early 2009 resulted in deportation holds on nearly 1,000 criminal aliens in 26 days. Two-thirds had committed very serious and/or violent crimes, and the rest were arrested on lesser charges that time, although many had more serious prior offenses in their background.
- The biggest obstacle to improving and expanding the 287(g) program is the lack of funding for bed space to detain illegal aliens discovered by local agencies to have committed crimes. As a result, ICE currently is removing fewer than half of the criminal aliens identified under 287(g). Several states have submitted proposals to ICE to help alleviate this problem, but ICE has not acted to increase funding for bed space, even as it claims to prioritize the removal of criminal aliens.

## 287(g): Origins and Rationale

Section 133 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) provided the then-Immigration and Naturalization Service (INS) the authority to enter agreements initiated by state, local, and tribal law enforcement agencies. Memoranda of agreement would enable local police to assist federal authorities in the investigation, arrest, detention, and transportation of illegal aliens and gain better cooperation from the INS in dealing with the burgeoning population of foreign nationals committing crimes. IIRIRA was enacted September 30, 1996.

California Congressman Chris Cox helped secure the inclusion of this measure in the broad immigration bill. The California Republican was sensitive to the pleas of local law enforcement, who were being overwhelmed by the number of illegal and criminal aliens causing problems in their jurisdictions; received too little response from the INS (which was understaffed, underfunded, and disorganized); and needed additional training, authority, and leverage to get the INS's cooperation instead of a cold shoulder.

Iowa Senator Charles Grassley was a leading sponsor of the companion measure in the Senate. Grassley was motivated by the murder of an Iowa college student at the hands of illegal aliens, and frustrated by the fact that the INS has no agents in Iowa at the time.

The 287(g) program provides full-fledged immigration officer training to a set of local or state law enforcement officers. While state and local officers typically have inherent legal authority to make immigration arrests,<sup>1</sup> 287(g) provides additional enforcement authority to the selected officers such as the ability to charge illegal aliens with immigration violations, beginning the process of removal. Under the program, a law enforcement agency agrees to a number of its officers receiving intensive immigration enforcement training, supervision of 287(g) officers by federal agents for immigration enforcement duties, and is assured of federal immigration cooperation and co-

ordination in certain immigration-related enforcement activities.

This measure was largely noncontroversial and unnoticed. Lobbies on all sides of the immigration issue mostly targeted other provisions, such as mandatory employee verification, or entirely parochial concerns. Even many members of Congress not as attuned to the immigration issue were naturally sympathetic to helping state and local law enforcement agencies.

Contrary to recent claims of some opponents, while the removal of criminal aliens was foremost in the minds of the congressional sponsors, 287(g) was never intended to be limited or focused solely on aliens who commit serious crimes. Rather, the legislation was intended to give local law enforcement agencies a tool to help compensate for the federal immigration agency's limitations. Rep. Lamar Smith (R-Texas), the bill's chief House author, said recently at a hearing: "The goal was to really enable those local law enforcement authorities who wanted to enforce the immigration laws in whatever way they thought best, and that might or might not include those who have committed serious crimes. Some people ... are under the mistaken impression that somehow that's required by the legislation, and that's really a decision made by the government in individual situations."<sup>2</sup>

There is no indication that Congress meant to give the federal government much discretion as to whether or not to enter a requested agreement. The initiators of agreements to participate in this new program were to be state and local agencies. Congress intended that the agreements be completed and implemented, not hamstrung or suffocated with red tape. And each agree-

Table 1. Growth of the 287(g) Program, 2002 - 2009

Year	New Programs	New Arrests	New Officers	Total Programs	Total Arrests	Total Officers
2002	1	N/A	36	1	N/A	36
2003	1	N/A	21	2	N/A	57
2004		N/A	0	2	N/A	57
2005	2	N/A	77	4	N/A	134
2006	3	6,089	52	7	6,089	186
2007	26	22,316	408	33	28,405	594
2008	34	45,368	346	67	73,773	940
2009 <sup>1</sup>	11	7,181	0 <sup>2</sup>	75 <sup>3</sup>	80,954	940

Source: ICE.

<sup>1</sup> As of November, 2008.

<sup>2</sup> Officers in new 2009 programs have not yet had training.

<sup>3</sup> Two agencies dropped out in 2009.

ment was to serve primarily the needs of the particular locality or state, not the preferences of ICE managers in Washington.

As IIRIRA began to be implemented, Section 287(g) (the new section of the Immigration and Nationality Act) was mostly idle. INS made no major efforts to publicize the new program. In 1998, encouraged by then-Attorney General Janet Reno and U.S. Senator Orrin Hatch (R-Utah), Salt Lake City, Utah, police chief Ruben Ortega asked the city council to approve a plan to become the first agency to join the program. Ortega maintained that illegal aliens from Mexico were responsible for most of the city's rampant drug trade, representing 80 percent of felony drug arrests in the city. The police department found it very difficult to arrange for the removal of criminal aliens, as the nearest INS offices were hundreds of miles away, in Reno and Denver. The city council narrowly rejected Ortega's request in a 4-3 vote, siding with the ACLU and Hispanic activist groups who feared that the program would lead to civil rights violations against all Hispanics in the city and cause immigrants to refrain from reporting crimes. Another jurisdiction that reportedly had been considering joining 287(g), Alamance County, N.C., subsequently dropped the idea (although it did join later, in January 2007).

Only after the terrorist attacks of September 11, 2001, did the Justice Department, where INS then resided, really get the 287(g) program going. Until then, political leaders in the most immigrant-heavy locales, such as Southern California and Florida, had resisted allowing their officers to become involved in this type of law enforcement.

However, the confluence of a "war footing" and unchecked immigration reaching more parts of the nation sparked interest in all options along the lines of the 287(g) program. The ensuing federal investigations, which revealed that a number of the terrorists had had contact with state and local law enforcement agencies — providing an opportunity to disrupt their plans — and the subsequent work of the 9/11 Commission highlighted vulnerabilities to national security, especially with regard to illegal immigration, identity fraud, and laxity in the visa system. Meanwhile, mass immigration at unprecedented levels led to increased presence of aliens farther and farther from the borders. The Ashcroft Justice Department viewed the 287(g) program as something beneficial in the fight against Islamic terrorism, as well as to rebuff the Latino gangs and smuggling rings that were pushing their illicit operations further and further inland.

Alabama and Florida led the way. In 2002, the Florida Department of Law Enforcement became the

first agency to participate, initially training 35 officers to use their authority in homeland security-related investigations, later adding 23 more after seeing how well it worked. In 2003, Alabama's Department of Public Safety enrolled 21 of its state troopers and driver's license examiners, focusing on fraud at the Department of Motor Vehicles, and added another 35 officers shortly after. Increasingly since then, state and local law enforcement agencies have joined the program and many more have expressed interest or attempted to participate.

The need for cooperation between local LEAs and ICE is no less today. ICE has neither the resources nor the personnel to process the entire criminal alien population by itself. ICE has estimated that there are 300,000-450,000 foreign nationals incarcerated in the nation's jails and prisons every year.<sup>3</sup> The agency currently attempts to locate removable inmates in only about 10 percent of these institutions, and together with programs in place at state prisons, these efforts result in removing only a fraction of the incarcerated criminal alien population (221,085 were identified in 2008).<sup>4</sup> Some sheriffs have estimated that a significant share of the inmates in their county jail system are illegal aliens. Maricopa County reports that 22 percent of felons sentenced are illegal aliens; in Lake County, Ill., 19 percent of jail inmates are illegal aliens; and in Weld County, Colo., 13-15 percent of jail bookings are illegal aliens.

As of November 2008 there were 67 active 287(g) jurisdictions, and more than 950 officers had been trained and certified in immigration law enforcement. According to ICE documents we obtained in a FOIA request, these officers were responsible for identifying more than 81,000 removable aliens between January 2006 and November 2008.

### Application Process

The process for participating in the 287(g) program is straightforward. A local or state law enforcement agency or government contacts the Department of Homeland Security's Bureau of Immigration and Customs Enforcement (ICE), often via a form provided on the ICE website. The state or local agency requests an agreement under this program and the arrangement must be approved by an executive branch official of the local jurisdiction. According to the law that established the program, ICE is then supposed to begin designing a memorandum of agreement for the agency. The agreement, or MOA, details the scope of the authority, the number of officers to be trained, and the purposes the specific arrangement is to serve.<sup>5</sup>

As the program has become more well-known, the number of interested local agencies has grown faster than ICE says it can accommodate, and there is now a long list of agencies waiting to join. In addition, ICE has developed criteria that each jurisdiction must meet in order to be approved. Among other factors, it expects the agreement to be consistent with ICE mission priorities (e.g., ICE will not approve agreements aimed explicitly at addressing day-labor site problems or illegal employment;<sup>6</sup> the jurisdiction must have adequate detention and inmate transport capabilities; and the jurisdiction must demonstrate that it has what ICE considers to be a severe criminal alien problem. The local ICE office must endorse the arrangement and confirm that it can sup-

port the partnership. Ultimately, ICE makes the call on whether a requesting agency may participate (contrary to congressional intent).

As part of the evaluation process, ICE often will conduct a “surge” operation in the jurisdiction to help determine the magnitude of the criminal alien problem in that area. This typically involves sending a team of immigration agents to screen the current jail population. Several jurisdictions that have hosted ICE surge operations report that large numbers of illegal aliens were identified and flagged for removal as a result. So in addition to quantifying the scale of the problem, the surge itself provides public safety and fiscal benefits.

For example, Gwinnett County, Ga., received authorization to apply for 287(g) in April 2008. Total jail admissions for 2008 were 39,890, of whom 14,227 were foreign-born. In January 2009, ICE agents launched a 26-day surge operation. By the time it was over, they had charged 915 of the inmates with immigration violations on top of their local charges. These removable aliens represented 68 percent of the foreign-born inmates at the time. Table 2 lists the offenses committed by these inmates (in addition to immigration violations). Two-thirds of the aliens identified in the ICE surge had committed serious crimes, i.e., crimes other than license, ordinance, minor traffic, or similar misdemeanors. More than half of the criminal aliens identified had previous criminal records, mostly in Gwinnett County.<sup>7</sup>

Other county sheriffs have released the results of their pre-287(g) surge operations, with similar findings. Lake County, Ill., just north of Chicago, reported that its one-day audit found that 19 percent of the inmates were illegal aliens, and that the suspects in half of the county’s 14 murders were illegal aliens. After the audit, Sheriff Mark Curran estimated that the county could receive up to \$4 million a year in reimbursement payments from ICE for detaining removable aliens detected under the 287(g) program.<sup>8</sup>

The results of these audits, which reveal such large numbers of potentially removable aliens in jails, often surprise ICE managers who sometimes seem to have underestimated the scale of the local problems, according to local law enforcement agencies. Said one sheriff when describing his 287(g) negotiations with ICE: “You should have seen them [the ICE managers] sweating bullets when we told them how many illegal aliens we had in our jails.”

**Table 2. Criminal Charges on Foreign-Born Inmates in Gwinnett County, Ga., Jan. 2009**

Charge*	Number
Murder	13
Rape	15
Armed Robbery	28
Child Molestation	23
Kidnapping	11
Aggravated Assault	38
Battery	15
Battery (Family Violence)	12
Theft (Felony)	34
Theft (Misdemeanor)	30
Drug Offense (Felony)	154
Burglary	17
Motor Vehicle Theft	7
Obstruction of Justice	9
Local Ordinance Violation	37
Hit and Run	6
DUI	48
Vehicular Homicide	1
No Driver’s License	226
Other Traffic	11
Other Felony	45
Other Misdemeanor	37
Probation Violation (Felony)	42
Probation Violation (Misdemeanor)	55
Total	914
Violent Crimes	156
Felony Crimes	455

**Source:** Source: Gwinnett County, Ga., Sheriff’s Department.

\* Most offenders have multiple charges; only the most serious offense is counted here.

## Training

After a 287(g) MOA is signed, ICE arranges for an agreed-upon number of officers to attend the four-week training course taught by ICE instructors, which often takes place at the Federal Law Enforcement Training Center in Georgia. The course covers immigration law, the removal process, documents and identification, consular notification, civil and human rights, avoiding racial profiling, counter-terrorism, other immigration-related public safety issues, and ICE paperwork.

ICE was slow to develop the ability to manage the training program and clearly did not anticipate and plan for the strong demand from local agencies. Many local agencies have reported long delays in getting an acknowledgement or response to their request, and complain about “getting the runaround” in the negotiation process. The process, from inquiry to completing training and setting up the equipment, apparently takes one to three years — an eternity in almost any field other than immigration. While ICE made some progress in 2008 working through the backlog of requests, some of the agreements have been languishing for more than a year, often without a clear or logical explanation for the delay from ICE. For example, Gwinnett County’s program reportedly was delayed, ironically, because ICE said it had to hire a new agent to supervise the work of the future 287(g) officers, a step that seems curious for a program designed, at least in part, to help alleviate the need to hire more federal agents to identify criminal aliens.

Officers in 287(g) must be U.S. citizens, undergo a background investigation, have at least two years of experience in their positions, and be clear of any pending disciplinary actions. While remaining full-time employees of their home department, these officers also are “deputized” as federal immigration officers for operations under the 287(g) arrangement. Supervised by ICE agents, these officers may question individuals suspected

of being unlawfully present in the United States, arrest and detain them until status is determined, and begin the removal process for illegal or criminal aliens.

ICE pays the training costs for 287(g) officers and reimburses travel expenses at the end of training. The state or local police agency pays the officers’ salary. Officers must assume up-front expenses for lodging and food at training, which are later reimbursed by ICE. Prior to the aforementioned revisions introduced by DHS Secretary Napolitano, ICE covered the costs of computers and other information technology necessary for gaining access to immigration databases. Now, ICE is asking the local partners to pay for this expense, although reportedly it is willing to waive this requirement on a case-by-case basis.

## Types of 287(g) Programs

There are three basic types of 287(g) agreements: Correctional, Highway Patrol, and Task Force (or Investigative). Many agencies have combination Correctional-Investigative programs, which provide the greatest flexibility. See Table 4 for a list of the agencies and type of agreement.

### *Correctional*

The most common use of the 287(g) program is in a correctional setting, usually a county jail system. Thirty-one out of the 67 agreements in place at this writing are strictly correctional agreements. Another 12 jurisdictions have agreements for the jail and for a task force or investigations. All but three of the correctional agreements are county jail operations. Three states (Arizona, New Mexico, and Massachusetts) have 287(g)-trained personnel working in the state prison system, although only the Arizona system produces a significant number of arrests (see Table 4).

ICE has stated that it prefers correctional agreements over other models, although this is not the model that was originally envisioned for the program. The rationale for a correctional 287(g) agreement is very compelling, for both policy and practical reasons. The enforcement activity is targeted at criminal aliens, who are always the highest priority and least controversial population to be subject to removal. The jails are a natural choke point for identifying aliens who have committed crimes. However, ICE does not have the staff to cover the thousands of county jails on a regular basis. Currently, through its Criminal Alien Program, ICE screens on a regular basis at only about 10 percent of the local jails, and even then the coverage is usually only during the

**Table 3. 287(g) Training Subjects**

1. Officer Authority
2. Immigration Law
3. Nationality Law
4. Federal Criminal Law
5. Civil Rights Laws
6. Liability Issues
7. ICE Use-of-Force Policy
8. Cross-Cultural Issues
9. Consular Notifications
10. Fraudulent Documents

Table 4. 287(g) Arrests by Agency, 2006-2009

Agency	2006	2007	2008	2009*	Total	Officers Trained	MOA Type
Alabama State Police					N/A	60	Combo
Alamance County (N.C.) Sheriff's Office		301	523	62	886	15	Jail
Arizona Dept. of Corrections	386	1,862	2,551	499	5,298	29	Jail
Arizona Dept. of Public Safety		1	4	6	11	30	TF/Inv.
Barnstable County (Mass.) Sheriff's Office		-	-	-	-	6	Jail
Bay County (Fla.) Sheriff's Office			7	43	50	5	Inv.
Beaufort County (S.C.) Sheriff's Office			11	9	20	5	Combo
Benton County (Ark.) Sheriff's Office		3	407	42	452	4	Inv.
Butler County (Ohio) Sheriff's Office		1	333	76	410	8	Combo
Cabarrus County (N.C.) Sheriff's Office			221	49	270	6	Jail
Cobb County (Ga.) Sheriff's Office		169	3,769	332	4,270	18	Jail
Collier County (Fla.) Sheriff's Office	12	17	818	164	1,011	37	Combo
Colorado Dept. of Public Safety		217	777	162	1,156	24	Inv./Patrol
Cumberland County (N.C.) Sheriff's Office			27	2	29	10	Jail
Davidson County (Tenn.) Sheriff's Office		1,745	2,647	365	4,757	16	Jail
Durham (N.C.) Police Department			33	1	34	1	Inv.
El Paso County (Colo.) Sheriff's Office			177	44	221	14	Jail
Florida Department of Law Enforcement		3	10	5	18	62	Inv.
Framingham (Mass.) Police Department			-	-	-	2	Inv.
Frederick County (Md.) Sheriff's Office			195	50	245	26	Combo
Gaston County (N.C.) Sheriff's Office		194	404	57	655	6	Jail
Georgia Dept. of Public Safety			13	3	16	22	Inv.
Hall County (Ga.) Sheriff's Office		3	868	158	1,029	13	Combo
Harris County (Texas) Sheriff's Office				49	49	9	Jail
Henderson County (N.C.) Sheriff's Office			103	35	138	9	Jail
Herndon (Va.) Police Department			68	11	79	1	Inv.
Hudson (N.H.) Police Department			5	-	5	2	Inv.
Jacksonville (Fla.) Sheriff's Office				68	68	13	Jail
Las Vegas Metropolitan Police/Sheriff's Dept.				103	103	10	Jail
Los Angeles County (Calif.) Sheriff's Office	3,630	4,546	3,867	768	12,811	14	Jail
Loudoun County (Va.) Sheriff's Office			1	5	6	3	Inv.
Manassas Park (Va.) Police Department			1		1	2	Inv.
Manatee County (Fla.) Sheriff's Office				10	10	11	Jail
Maricopa County (Ariz.) Sheriff's Office	3	3,197	13,287	1,618	18,105	182	Combo
Massachusetts Dept. of Corrections			76	11	87	9	Jail
Mecklenburg County (N.C.) Sheriff's Office	519	2,203	2,212	349	5,283	22	Jail
Missouri State Highway Patrol			2	1	3	10	Inv./Patrol
New Mexico Dept. of Corrections			5		5	4	Jail
Orange County (Calif.) Sheriff's Office	1	3,557	4,171	496	8,225	19	Jail
Phoenix (Ariz.) Police Department				-	-	6	Inv.
Pinal County (Ariz.) Sheriff's Office			34	6	40	5	Combo
Prince William County (Va. Police Department			30	13	43	6	Inv.
Prince William County (Va.) Sheriff's Office			2		2	2	Inv.
Prince William-Manassas (Va.) Adult Det. Ctr.	2	130	910	143	1,185	14	Jail
Riverside County (Calif.) Sheriff's Office	314	2,141	1,548	234	4,237	11	Jail
Rockingham County (Va.) Sheriff's Office		34	163	15	212	5	Combo
Rogers (Ark.) Police Department		2	107	18	127	6	Combo
San Bernardino County (Calif.) Sheriff's Office	1,222	1,932	2,029	331	5,514	12	Jail
Shenandoah County (Va.) Sheriff's Office		14	23		37	3	Inv.
Springdale (Ark.) Police Department			148	38	186	6	Combo
Tulsa County (Okla.) Sheriff's Office		39	1,334	147	1,520	31	Combo
Wake County (N.C.) Sheriff's Office			544	394	938	18	Jail
Washington County (Ark.) Sheriff's Office		4	216	35	255	5	Combo
Weber County (Utah) Sheriff's Office				9	9	14	Jail
Whitfield County (Ga.) Sheriff's Office			100	38	138	6	Jail
Yavapai County (Ariz.) Sheriff's Office			237	64	301	6	Combo
York County (S.C.) Sheriff's Office		1	350	43	394	5	Jail
Total	6,089	22,316	45,368	7,181	80,954	900	

Source: ICE.

\* First two months of fiscal year only.

day shifts.<sup>9</sup> One problem is that the jail inmate population turns over very quickly, with inmates bonding out or being released after serving a short sentence. Having jail intake officers identify illegal aliens at the time of booking ensures that they will be flagged for removal before release.

The correctional agreements are the clearest example of how the 287(g) program augments ICE capacity and serves as a “force multiplier.” In Arizona, for example, the state with one of the most severe illegal immigration problems, the ICE supervisory detention and deportation officer who is in charge of the Maricopa County 287(g) jail operation manages a staff of five ICE enforcement agents. Thanks to the 287(g) program, this supervisor also has 64 Maricopa County jail employees under his purview who can screen and process criminal aliens on behalf of ICE.<sup>10</sup> Removing the criminal aliens they find saves money for the county; having 64 additional immigration status screeners increases ICE productivity exponentially.

While the delegation of authority has allowed the 287(g) officers to put any illegal alien on the path

to removal, due to resource constraints, lack of detention space, or policy reasons, most participating agencies have decided to focus their enforcement authority on certain groups. For example, the Los Angeles County Sheriff’s Office uses its authority to target gang members in custody. In Rockingham County, Va., the 287(g) booking officers consider immigration charges for any removable alien who is deemed to be a threat to public safety, regardless of the level of offense that results in his or her being jailed. In all correctional agreements (and other models as well), the immigration law enforcement authority comes into play only after an individual is arrested or involved in a crime or criminal investigation; in no cases are people taken into custody or detained for the sole purpose of trying to determine their immigration status.

In the programs we examined, all foreign nationals booked into jails were questioned and screened through the ICE databases, regardless of the severity of the offense, so that warrants, prior crimes, or immigration violations could be discovered. Notwithstanding the claims of civil liberty and ethnic advocates who oppose

this program, there have been no documented instances of sheriff’s deputies in 287(g) jurisdictions rounding up people on the basis of appearance or ethnicity so that they can be brought to jail and screened. If such tactics had been used, it is virtually certain that ICE would have shut down the program.

The correctional agreements have produced the largest number of arrests in the 287(g) program. It is impossible to say precisely, because 12 of the 67 agencies have combination corrections/task force agreements where the source of the alien arrests are not disaggregated, but we estimate that about 91 percent of the 287(g) arrests over the period studied were from correctional programs. (See Table 7.)

**Table 5. Arizona Department of Corrections 287(g) Program Results**

**Average Number of Aliens Screened: 337 per month and 4,000 per year.**

**Removable Aliens Identified in ADC as of Sept. 30, 2008: 5,766**

Number of Legal Residents	232	(4 %)
Number of Illegal Aliens	5,534	(96 %)

**Aliens Identified and Released to ICE**

FY 2006	1,130
FY 2007	1,898
FY 2008	3,184
FY 2009 (partial)	632
<b>Total</b>	<b>6,844</b>

**Citizenship of Aliens in ADC as of Sept. 18, 2008**

Mexico	5,284
Cuba	65
Honduras	30
Jamaica	30
El Salvador	28
Vietnam	26
Guatemala	25
Philippines	16
Canada	15
Sudan	12
Iraq	9
<b>Other</b>	<b>163</b>

**Source:** Arizona Department of Corrections.

Some of these programs are turning up startling numbers of removable criminal aliens. For example, Harris County, Texas, which is one of the largest county jail systems in the country and includes Houston, issued just over 10,000 detainers in the first 10 months after implementing the 287(g) program (November 1, 2008 - August 18, 2009). These detainers were processed by eight 287(g)-trained officers, and most involved serious offenses. Only Los Angeles and Maricopa (Ariz.) counties ever process more criminal aliens, with 14 and 64 trained officers, respectively.

Lt. Michael Lindsay, who runs Harris County's 287(g) program, says that the 287(g) program is superior to every other ICE program targeting criminal aliens. Queries to the Law Enforcement Support Center, a call center created to answer status queries from state and local law enforcement agencies, can take several hours to receive a response. Even the brand-new interoperability project of ICE's Secure Communities Program, in which immigration status queries are done automatically in combination with the standard FBI criminal record check, can take up to four hours. One significant weakness of the Secure Communities program vis-a-vis 287(g) is that illegal aliens who do not have a prior record with ICE will not be flagged as removable under Secure Communities. Another problem is that Secure Communities currently has the capacity to process only the very most serious offenders (rapists, murderers, robbers, or kidnapers). In contrast, the checks done by 287(g) officers, who have direct access to ICE databases, take only minutes. In addition, the trained officers have the knowledge and authority to question aliens about their status. They can make independent assessments of an offender's lack of status, even if the offender does not have a prior record with DHS. These advantages result in the removal of more criminal aliens than under other programs.

For example, in late 2008 the Harris County (Texas) Jail joined the Secure Communities interoperability program, which was budgeted at

about \$1 billion nationwide. In the first six months, the program identified 1,718 removable aliens in the county jails — certainly a contribution to public safety. But over the same time period, the nine locally paid Harris County 287(g) jail officers identified and charged about 5,000 criminal aliens, at no cost to the federal government beyond the initial \$125,000 for training and set-up and \$50,000 for six months of supervision. The 287(g) program clearly provides far more bang for the buck for local communities and all federal taxpayers.

Previously, Harris County had ICE agents screening aliens in jails under the auspices of the Criminal Alien Program, but these agents did not cover the

**Table 6. Tulsa, Oklahoma 287(g) Program Results: 2007-2008**

**September 18, 2007, to August 31, 2008**

**Total Removable Aliens Identified in ADC as of Sept. 30, 2008: 5,766**

Detainers Lodged by Local Officers	1,777 <sup>1</sup>
Aliens Transferred to ICE Custody	1,608 <sup>2</sup>
Aliens Processed for Removal/Proceedings	1,357 <sup>3</sup>

**Illegal Alien Offences**

Assault & Battery	80
Alcohol	100
Breaking & Entering	1
Drugs	256
Firearms	44
Fraud	9
Illegal Presence	17
Larceny	76
Murder	1
Sex Crimes	29
Traffic	763
Trespass	2
Resisting Arrest	32
Unknown/Not Stated	367

**Citizenship**

Mexico	1,256
Honduras	55
Guatemala	19
El Salvador	13
Kenya	2
Peru	2
Other	13 <sup>4</sup>

**Source:** Tulsa County Sheriffs Office.

<sup>1</sup> 6.5 % of total inmate population.

<sup>2</sup> 90 % of illegal population.

<sup>3</sup> 76 % of illegal aliens identified.

<sup>4</sup> One each: Italy, Kazakhstan, Argentina, Belize, Nicaragua, Jamaica, Tanzania, UK, Micronesia, Portugal, Venezuela, Vietnam, Yemen.



night shift, which 287(g) does. Some of the most serious cases come in at night; recently an individual booked in late at night was charged with assault with a deadly weapon. The 287(g)-trained officers discovered that this inmate was the subject of two Interpol warrants for murders in Mexico. This information might have fallen between the cracks without the full-time, comprehensive screening made possible by dedicating local officers to the 287(g) program.

### Highway Patrol

A handful of jurisdictions — the Colorado Department of Public Safety, the Alabama State Police, the Missouri State Highway Patrol, and the Georgia Department of Public Safety — have implemented 287(g) programs in a highway patrol setting. While it has not been widely used this way, highway patrol was one of the uses originally envisioned for the 287(g) program. The main purpose is to address the threat to public safety posed by alien smuggling on the nation’s highways.

Today, because the land borders and ports of entry are more tightly controlled, smuggling organizations offer one of the primary methods for possible entry by illegal aliens, terrorists, and other criminals. Alien smug-

gling organizations routinely guide and transport large and small groups of illegal immigrants from border areas or airports to final destinations around the country, usually by the vanload. They pack as many people as possible into vehicles and travel at high speeds for long periods of time over long distances. The smugglers are not concerned with the safety of the vehicle, the passengers, or the other drivers on the road.

As with other types of illegal immigration-related crime, ICE must focus its resources on investigating and prosecuting the larger and/or more dangerous smuggling organizations, and cannot patrol the major routes, nor even investigate every case, much less react to remove every alien who participates in smuggling. Local LEA partners can help fill this gap in enforcement, as every state has a highway patrol.

The impetus for Colorado’s 287(g) highway patrol program came after a string of four serious vehicle accidents involving alien smuggling on Colorado highways that occurred within a 24-hour period in 2006, one of which happened to be observed by a state legislator participating in a ride-along with a Colorado trooper. Over 100 illegal aliens were taken into custody in those four incidents. At the time, the State Patrol estimated that it encountered over 500 illegal aliens per week in the course of regular duties, or more than 26,000 per year. At the same time, the agents in the local ICE office were focused on criminal investigations and identifying illegal aliens who were incarcerated, not on addressing alien smuggling.

Soon after the series of accidents, members of the state legislature worked with the Colorado State Patrol (CSP) to create and fund a new Immigration Enforcement Unit. The legislature provided funding for 23 uniformed state troopers, who completed the ICE 287(g) course in 2007. Troopers are deployed based on statistical information on known human smuggling and trafficking routes and concentrations of immigration violations. Emphasis is on highway safety and disrupting alien smugglers who endanger the lives of others on the road. “We go out like any other state trooper to enforce traffic laws.

**Table 7. Arrests by Type of 287(g) Agreement (January 2006 - November 2008)**

Type of Agreement	Number of Agencies	Number of Arrests	Number of Officers Trained
Jail Only	31	73,682	573
Task Force/Investigative Only	24	1,777	187
Jail/Task Force Combination	12	5,495	140

Source: ICE.

**Colorado Immigration Enforcement Unit: Summary of 2009 Activity**

32	human smuggling investigations, with 10 state cases prosecuted
2	human trafficking cases
360	aliens processed on immigration charges
50	criminal aliens processed, whose criminal histories ranged from multiple felony convictions to multiple DUI convictions

Source: Colorado State Patrol Immigration Enforcement Unit.

But if we come across any cases we suspect to be human smuggling, we have the authority to take them in,” says CSP trooper Rob Hampton.<sup>11</sup> According to former unit Captain Jon Barba, the main benefit of the program has been the ability to accurately identify certain aliens encountered on traffic patrol, so as to prevent the release of individuals of national security interest, wanted criminals, imposters, human smugglers, and serial immigration violators. Only those who have displayed unsafe or suspicious behavior are screened, (e.g., DUIs, unsafe vehicles, speeders, and revoked licenses.)

According to CSP documents, the unit uses the 287(g) authority as follows:

- when immigration issues or violations are discovered during daily state troopers’ duties;
- during the investigation of human smuggling and human trafficking cases;
- during the investigation of cases involving criminal extortion or coercion or involuntary servitude;
- contacts involving foreign nationals who are criminal aliens, aggravated felons, or multiple traffic offenders;
- on vehicle contacts containing a number of illegal aliens during which the vehicle is determined unsafe due to serious mechanical defects and/or unsafe loading (excessive occupants for the vehicle’s design).

For more detail on these authorities, see “Colorado Immigration Enforcement Unit: Goals & Authorities” on p. 12.

There is no question that the two state programs together have vastly increased the identification, prosecution, and removal of criminal aliens in that state. Over the life of the program, the Colorado Immigration Enforcement Unit has made 1,156 immigration arrests, of which 777 were in 2008. In addition, the El Paso County Sheriff’s Office 287(g) program added another 177 arrests in 2008. The ICE investigations office in Denver, which covers Colorado and several surrounding states, made a total of 1,594 arrests in 2008.

According to Todd James, a CSP spokesman, there have been no more alien smuggling related fatalities on Colorado highways since the 287(g) program began there.<sup>12</sup>

**Traffic Stops Yield Significant Arrests.** Much of the recent criticism of the 287(g) program has centered on allegations that the aliens being arrested are not “serious” criminals. Critics point to large numbers of illegal aliens who are apprehended as a result of traffic offenses and suggest that this demonstrates that 287(g) officers engage in anti-immigrant ethnic profiling. Indeed, in many of the 287(g) jurisdictions we examined a significant number of the arrests are for traffic offenses (as is the case in many non-287(g) jurisdictions as well). However, not all traffic offenses are minor; they can range from failure to use a turn signal to vehicular homicide. Drunk driving is one common traffic offense that snares illegal aliens. In Mecklenburg County, N.C., where several people have been killed by illegal alien drunk drivers in recent years, nearly one-fourth of the aliens processed for removal have been arrested for DWI. (See Table 8.)

Law enforcement agencies defend these traffic enforcement programs by emphasizing that they are aimed at those who break laws, not any particular ethnic group. Says Frederick, Md., police chief Kim Dine: “We obviously engage in aggressive traffic enforcement because anybody in policing knows that that is also an effective way of dealing with crime.” He points out that while two-thirds of the 287(g) arrests in his area were associated with traffic violations, many of those traffic offenders turned out to have records of prior crimes, in particular drug trafficking and gang crimes, including four members of MS-13, the notoriously violent Hispanic gang comprised mostly of illegal aliens.<sup>13</sup>

## *Task Force/Investigative Model*

More than half of the agencies using 287(g) have elected to have task force, or investigative, agreements. While these account for far fewer arrests overall than the correctional agreements, the task force agreements provide maximum flexibility for the agency to use 287(g) for local crime-fighting priorities that are not limited to a correctional or patrol setting. Officers in these programs can take advantage of the unique and powerful investigative authorities that immigration law provides, which can be enormously helpful in criminal investigations, especially in tackling drug, gang, and organized crime.<sup>14</sup>

**Florida.** The very first 287(g) MOA was a task force agreement signed by the Florida Department of Law Enforcement (FDLE) soon after 9/11. Initially it was designed to support the investigations pursued by newly formed domestic security task forces. The FDLE now has 62 officers who have received 287(g) training. The focus of the task force is on preventing a terrorist attack,

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and the 287(g) authority has been used to investigate foreign nationals suspected of involvement in suspicious activity or who were working around critical infrastructure. For this law enforcement agency, the key benefit is direct access to the ICE databases, which enables officers to determine accurately the status of foreign nationals

who are the subjects of their investigations. The program has made just a few arrests (20) in recent years, but these included individuals who were surveilling sensitive locations and other aliens who were employed at airports and nuclear power plants.

After trying the program, the FDLE trained

## Colorado Immigration Enforcement Unit: Goals & Authorities

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- 1) SUPPORTING THE CSP TRAFFIC SAFETY GOALS by strict enforcement of Colorado's traffic laws.
- 2) INTERDICTING CRIMINAL ACTIVITY by:
  - Interdicting human smuggling and human trafficking on Colorado highways through traffic enforcement;
  - Identifying, arresting, and processing criminal aliens; including aggravated felons identified during normal trooper duties.
- 3) ENHANCING HOMELAND SECURITY by:
  - Timely distribution of sensitive information to the Colorado State Patrol Homeland Security Section;
  - Arresting and processing aliens suspected of being in the United States in violation of immigration laws discovered during daily trooper activities.
- 4) AUTHORIZED FUNCTIONS
  - Authority to interrogate any person believed to be an alien as to his/her right to be in the United States and to process. For immigration violations those individuals who are convicted of state or federal felony offenses;
  - Authority to arrest without warrant any alien entering or attempting to unlawfully enter the United States;
  - Authority to arrest without warrant for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, expulsion, or removal of aliens;
  - The power and authority to serve warrants of arrest for immigration violations;
  - The power and authority to administer oaths and to take and consider evidence, to complete required criminal alien processing, including fingerprinting, photographing, and interviewing of aliens, to include preparation of affidavits and the taking of sworn statements;
  - The power and authority to prepare charging documents;
  - The power and authority to issue immigration detainers, and the I-213 for the processing of aliens;
  - The power and authority to detain and transport arrested aliens to ICE-approved detention facilities.

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**Source:** "Colorado State Patrol Immigration Enforcement Unit," presentation by Captain Jon Barba, at a Northwestern University Center for Public Safety conference on Immigration and the Law Enforcement Executive, Albuquerque, New Mexico, January, 28-30, 2008.

more officers and expanded the scope of its investigations to other non-security crime problems. Thirty-nine agencies in Florida now have 287(g)-trained officers, including 23 county sheriff's offices; the police departments in Miami, Clearwater, Ft. Lauderdale, Ft. Myers, Hollywood, Miami-Dade County, St. Petersburg, and Tallahassee; and five state agencies, including the Agriculture, Fish & Wildlife, and Transportation departments and the University of Florida.

**Alien Crime Units.** The investigative/task force option has enabled other agencies to create specialized alien crime units to support other officers in the agency, as Prince William County, Va., and Beaufort County, S.C., have done. Alternatively, it allows neighboring jurisdictions to combine forces to address common crime problems related to immigration, as has been done in Arkansas and Florida. Most of these arrangements are in rural locations that are far from ICE field offices and would not otherwise have access to these immigration law tools.

In addition, the 287(g) authority and access to immigration records is very useful for detectives or investigators working specialized cases, such as drugs, gangs, document fraud, or vehicle and driver's licensing. Officers can question and investigate foreign-born individuals who are still at large or under suspicion. They can use immigration law tools in pursuing complex investigations in areas such as organized crime, human smuggling, drug trafficking and distribution, gangs, and document fraud. Jail and patrol agreements simply do not provide the flexibility needed for investigations that aim to systematically address a crime problem or to dismantle criminal organizations.

Having 287(g) authority greatly improves a local agency's ability to identify foreign individuals and any previous criminal history and greatly improves their intelligence gathering, according to the Collier County, Fla., Sheriff's Office, which has set up a Criminal Alien Task Force. The task force is multi-functional and supports all the other Sheriff's Office divisions — the jail, the human smuggling unit, intelligence, driver's license investigations, street gang units, the fugitive warrants bureau, marine issues, road patrol, and other investigations. It has enabled task force officers to apprehend and put on the path to removal a number of "violent, felony career criminals who otherwise would not have been identified," including:

- An individual with multiple prior arrests for child molestation;
- A prior deportee wanted in another state for child rape and a firearm offense, also suspected of murdering his eight-month-old daughter;
- An individual arrested multiple times for robbery, burglary, drugs, and firearms charges who had used a false birth certificate to obtain a U.S. passport and a driver's license;
- An MS-13 gang member previously deported from another state after a gang-related shooting.<sup>15</sup>

Prince William County, Va., is one of a handful of local police departments to use 287(g) for a specialized unit devoted to alien crime. The county established its Criminal Alien Unit on March 3, 2008, as part of a comprehensive public safety strategy. This strategy included the adoption of a policy mandating that all individuals taken into custody for a state crime must be screened for immigration status. All officers on the force received basic immigration law training for this purpose. Aliens who are suspected to be illegal or removable are referred to the six-officer Criminal Alien Unit, which has 287(g) authority. Depending on the person and the crime, the aliens identified may be released or held on immigration charges in addition to other state charges.

The data from Prince William County contradict accusations from critics that 287(g) agencies are using the authority to slap minor charges on people who

**Table 8. 287(g) Mecklenburg County, N.C., 287(g) Program Results, February 2006 - October 2009**

Total Foreign-Born Inmates Booked	12,203
Inmates Processed for Removal	7,722
Inmates Previously Removed <sup>1</sup>	632
Inmates with Outstanding ICE Warrants <sup>2</sup>	567
DWI Arrests	1,824
<b>Citizenship of Aliens Processed</b>	
Mexico	62 %
Honduras	20 %
El Salvador	6 %
Guatemala	5 %
Other	7 %

**Source:**

<sup>1</sup> Illegal re-entry felony.

<sup>2</sup> Previously ordered to depart.

## Sample 287(g) Investigative/Task Force Program Arrests

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**Beaufort County, S.C.:** A man alleged to have committed a road rage assault, a misdemeanor, was investigated by the county's 287(g) unit and found to have an extensive criminal history, including murder and drug dealing. The unit was able to determine the man was born in Mexico and had been deported twice before, making him subject to felony immigration charges, and thus a high priority for removal by ICE.<sup>1</sup>

**Collier County, Fla.:** Sheriff's officers suspected a man was guilty of murdering his eight-month-old child, but had uncovered no witnesses or evidence to justify his arrest. He was already wanted in California for another violent offense, and officers learned that he was planning to flee the state shortly. The 287(g) officers conducted a quick immigration status investigation and discovered the suspect was actually a foreign national who had used another man's Puerto Rico birth certificate to obtain his Florida driver's license. They immediately arrested him on immigration violations, and were thus able to hold him long enough to develop the case to charge him with the murder. His trial is still pending.<sup>2</sup>

**Northwest Ark.:** Officers on the multi-jurisdictional task force investigated and later made arrests of 23 illegal alien workers and owners of a local Mexican restaurant chain and food distribution company. Charges included identity theft, use of counterfeit identification, employment eligibility fraud, money laundering and harboring illegal aliens. The owners ultimately were sentenced to short jail sentences and a \$400,000 fine, and the illegal workers were removed.<sup>3</sup>

**Frederick County, Md.:** The first arrest made by 287(g) officers under this agency's investigative agreement was an illegal alien caught driving drunk at 40 mph over the speed limit through a school zone in the afternoon.<sup>4</sup>

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<sup>1</sup> "Road Rage suspect Faces Possible Deportation," *The Island Packet* (Hilton Head, S.C.), October 6, 2008.

<sup>2</sup> Michael Williams, in "Local Enforcement of Federal Immigration Law and 287(g)," LEAPS-TV webcast, July 28, 2009, at [www.cis.org/Announcement/287%28g%29-Webcast](http://www.cis.org/Announcement/287%28g%29-Webcast).

<sup>3</sup> "Two Plead Guilty to Hiring Illegals at Restaurant," *Arkansas Democrat Gazette*, August 7, 2008, <http://www.arkansasonline.com/news/2008/aug/07/2-plead-guilty-hiring-illegal-aliens-restaurant/>.

<sup>4</sup> Remarks of Sheriff Chuck Jenkins at the FAIR National Board of Advisors Conference in Washington, D.C., on October 3, 2009.

appear to be immigrants, for the sole purpose of trying to have them deported (as if police officers actually would have time or interest in such activity). In the first four weeks of the program, during the regular course of their duties, Prince William police officers encountered 89 people they had probable cause to believe were illegal aliens. Of those, 41 were physically arrested — 39 on local charges, and two on immigration charges brought by officers with 287(g) authority. Of the remainder who were not arrested, 25 were released with a traffic or criminal summons, 21 were determined to be illegal aliens but were released without immigration charges, and two were determined to have legal status. Table 9 shows the specific charges of those who were physically arrested.

### Costs

The 287(g) program has proven to be cost effective, both for ICE and for local law enforcement agencies. Table 10 shows the funding provided by Congress for 287(g). The number of agencies participating and the number of 287(g) arrests both have risen quickly as Congress has injected money into the program. However, even as Congress increased funding in FY 2009 under the Obama administration, DHS has slowed the pace of new participants. At this writing, it has not been determined what the level of funding will be for 2010. The House of Representatives provided an increase to \$68 million, but the Senate approved only \$5.4 million, equal to the amount of the Obama administration’s request, which appears to be for new supporting agreements.

ICE expenses for the program include training, equipment, and supervision. The cost for training each officer is estimated to be \$2,622 if conducted at the Federal Law Enforcement Training Center in Georgia, or \$4,840 if conducted at another site. ICE spends an average of \$80,000 per agency for the initial set-up of equipment, including computers and a secure transmission line, and another \$107,000 per agency for annual operations and maintenance.<sup>16</sup> Supervision is provided by the local ICE field office, typically with existing personnel, who manage the program along with other duties.

The 287(g) program is a bargain compared to other immigration law enforcement programs, especially those targeting criminal aliens, such as Secure Communities and Fugitive Operations. In FY 2008, ICE spent

**Table 9. Prince William County, Va.,  
Illegal Immigration Enforcement Program,  
First Four Weeks (March - April 2008)**

Total Illegal Alien Contacts	89
Physical Arrests	41
Local Charges (see below)	39
ICE Outstanding Warrant	1
Illegal Entry, No Warrant	1
Released on Traffic or Criminal Summons	25
Identified as Illegal Alien, Released, No Charges	21
Legal Presence Established	2
<b>Local Criminal Charges</b>	
Misdemeanors	
Drunk in Public	9
Domestic Assault	3
DUI	8
False ID	2
Driving w/o License	5
Petit Larceny	1
Marijuana Possession	1
Resisting Arrest	1
Sexual Assault & Battery	1
Shoplifting	1
Felonies	
Attempted Murder	1
Cocaine Possession	1
Grand Larceny	2
Hit & Run	1
Shoplifting	2
Total	39

Source: Prince William County, Va., Police Department.

**Table 10. Federal Spending on  
287(g) (millions)**

2006	\$5.0
2007	\$15.5
2008	\$39.7
2009	\$54.1
Total	\$114.3

Source: GAO, *Immigration Enforcement: Better Controls Needed over Program Authorizing State and Local Enforcement of Federal Immigration Laws*, GAO-09-109.

\$219 million to remove 34,000 fugitive aliens (who are mostly criminals). That same year, ICE was given \$40 million for 287(g), which produced more than 45,000 arrests of aliens who were involved in state or local crimes. The main reason 287(g) is so cost-effective for ICE is because the local agencies cover the cost of the personnel who screen and arrest the illegal aliens, making it a true force multiplier.

Although opponents of 287(g) often maintain that the costs to local agencies of participating in the program outweigh the benefits,<sup>17</sup> in fact most participating agencies report that it actually saves them money, even in the short term. First of all, when ICE accepts custody of an incarcerated alien for removal, ICE will reimburse the local jail for the cost of holding him or her, thus imposing no additional costs on the local agency for jailing the removable alien population.

Even more important, a number of 287(g) agencies report that the identification and removal of criminal aliens has, over time, reduced the size of their total inmate population. According to Lt. David Wesley Lynch, who runs the Whitfield County, Ga., jail 287(g) program, that program has resulted in the deportation of 400 criminal aliens, which has in turn helped bring about a reduction in the total jail population for the first time ever. (See sidebar XX.) This drop has occurred because serious offenders were removed as well as so-called minor, but chronic repeat, offenders. In addition, Whitfield County has seen a drop in the number of arrests overall, at a time when many agencies are reporting in-

creases in crime due to the economic crisis and high unemployment.<sup>18</sup>

Other agencies in different parts of the country report similar results. Commander Michael Williams, who runs the Collier County Sheriff's Office 287(g) jail and task force programs, says 287(g) is one major factor, together with a drug court and diversion program, that has enabled the county to close one of its jails, saving the county about \$550,000 in annual operating costs. The program removes 20-30 inmates each week, with more than 1,500 detainees placed as of May 2008. Prior to starting 287(g), Collier County estimated that one-fourth of its jail population was illegal aliens, costing the county about \$9 million per year.<sup>19</sup>

Sheriff Daron Hall, of Davidson County, Tenn., reports that after two years of using 287(g) his jurisdiction has experienced a 46 percent decline in the number of illegal aliens committing crimes and a 31 percent decline in the number of foreign-born individuals arrested. The federal government has reimbursed the county \$61 a day for illegal aliens detained, for an estimated total of \$1 million in 2009. So far, only a tiny fraction (1.3 percent) of those removed through 287(g) have returned and been re-arrested in the county.<sup>20</sup>

The Tulsa, Okla., Sheriff's Office reports that its jail population decreased by 7 percent one year after starting 287(g). Its budget did not increase, and no staff were added. A spokesman calls it "a money-making project," as ICE reimburses the jail \$54.13 per day for each of its detainees.

### Whitfield County, Ga., Recidivist Offender Cost Savings Under 287(g)

**David Wesley Lynch, Lieutenant, Whitfield County Sheriff's Office:** "People have claimed that 287(g) is prohibitively expensive, but it is not nearly as expensive to the local communities as is the status quo of federal-only immigration enforcement. One recidivist over the course of 10 years — how much does he cost the community?"

"One example is a subject we deported as an aggravated felon last year. Since 1997, he had been arrested 13 times in this facility alone, with 12 arrests occurring between August 2000 and his time of release to ICE in August 2009. In this time he had served approximately 456 days incarcerated in our jail alone, not counting arrests in other county jails and time in any State Department of Corrections facility. If you figure that he had 455 days in custody in the last 10 years and assume that that would continue for the next 10, and apply an inmate cost per day of approximately \$45, we can assume that we have saved the citizens of Whitfield County over \$20,000 in jail costs by performing a few hours of work.

"In addition, consider that there are savings not just in jail costs, but also in prosecutions, arrests, and state costs related to housing, medical, recreational, probation, parole, and harm to victims of crime and legal costs for inmates in the state and local systems."

## Participation

Interest in 287(g) has skyrocketed in the past several years. Today, some 1,000 officers from 67 state or local agencies participate in the program (see Map). Eleven new agreements were announced in July 2009, and about 30 are reportedly on the waiting list.

While its growth has been dramatic, the potential for expansion of 287(g) is huge. It has occurred with little encouragement from ICE; in fact, the growth of the program is more due to word of mouth among law enforcement agencies, news media accounts, and pressure from political leaders and community activist groups concerned about crime associated with illegal immigration. For years DHS and ICE resisted expanding the program, citing a lack of resources to meet demand and lack of adequate bed space to house the large numbers of removable aliens who would be identified. ICE has contended that some of the agencies that are applying do not really need it, and tried to steer them toward the catch-all ICE-ACCESS program (<http://www.ice.gov/pi/news/factsheets/access.htm>). ICE has further discouraged prospective applicants by dragging out the application and approval process with what are described by applicant agencies as endless, repetitive, unproductive meetings after meetings with Oz-like layers of bureaucrats. In many instances, the only thing that has cut through the red tape and gamesmanship has been the active involvement of congressional representatives. At least 30 agencies are reportedly on the waiting list.

## Organized Opposition

In addition to the struggle with ICE, local agencies often encounter organized resistance from local activist groups that traditionally oppose immigration law enforcement, such as the ACLU and ethnic advocacy groups. These groups are reinforced by their national counterparts, which have over the years developed an extensive tool kit of how-to manuals and talking points to help local activists try to shoot down proposed 287(g) agreements.<sup>21</sup> Anti-287(g) advocacy extends even to the legislature in Mexico; a member of the Mexican Senate recently denounced the program, calling it a clear violation of the human rights of Mexicans.<sup>22</sup>

Advocates justify these efforts with an array of studies that allege to establish that 287(g) agreements lead to:

- rampant racial profiling, as local law enforcement officers focus on arresting people who appear to be immigrants in order to have them

deported;

- round-ups of innocent or unfairly targeted immigrants on trumped up or minor local charges;
- a deterioration in public safety overall as immigrants become so fearful of local law enforcement authorities that they will refrain from reporting crimes;
- police distraction from more important crime-fighting because they spend too much time on immigration law enforcement.

In addition, 287(g) opponents often cite academic studies claiming that immigrant crime is insignificant and less common than the crimes committed by native-born Americans.

Despite being repeatedly invoked in discussions on 287(g) or immigration law enforcement at the local level, none of these claims hold up under scrutiny, and none are consistent with the actual experience or events in the 287(g) jurisdictions. All agencies we interviewed reported having no complaints filed accusing officers of racial profiling, much less any documented abuses. There have been allegations made by community organizations and politicians in a number of 287(g) jurisdictions but, as reported in a GAO study, to date there have been no substantiated cases of racial profiling or abuse of immigration authority in any 287(g) location. This should not be surprising, as the 287(g) training emphasizes how to avoid racial profiling. In addition, most U.S. law enforcement officers today are well aware of the sensitivity of this issue, and receive considerable training throughout their careers on how to prevent it.

Similarly, no 287(g) agencies have engaged in street sweeps or round-ups for the sole purpose of ques-

Table 11. Top 10 Agencies for 287(g) Arrests

Agency	Total Arrests	Date Joined
1. Maricopa County, Ariz.	18,105	2/7/07
2. Los Angeles County, Calif.	12,811	2/1/05
3. Orange County, Calif.	8,225	11/2/06
4. San Bernardino, Calif	5,514	10/19/05
5. Arizona Dept. of Corrections	5,298	9/16/05
6. Mecklenburg County, N.C.	5,283	2/27/06
7. Davidson County, Tenn.	4,757	2/21/07
8. Davidson County, Tenn.	4,270	2/13/07
8. Cobb County, Ga.	4,237	4/28/06
9. Riverside County, Calif.	1,520	8/6/07



tioning members of the community about their immigration status. All 287(g) operations and activities have been conducted in the context of criminal investigations or arrests, and for legitimate law enforcement purposes. DHS has yet to report on a single instance of a local agency overstepping its bounds or authority. Apparently lacking any actual incidents, opponents such as the ACLU and Catholic Charities have staged outreach events in various parts of the country, including Georgia and Maryland, to encourage individuals to file complaints.

While it is true that a significant number of those charged with immigration violations under the 287(g) program were arrested for lesser or non-violent offenses like minor traffic violations, this is not necessarily a sign that agencies or officers are abusing their authority. Many of the correctional institutions screen all those who end up in jail, and if they are found to be in the United States illegally, generally they are removable. Some are held in custody until the disposition of their local and immigration cases, but many are not. Many are given voluntary departure or released pending an immigration hearing.

While many of those charged with immigration violations came to attention of law enforcement as a result of a traffic stop or minor crime, because of 287(g) officers are able to complete a thorough screening of the aliens' background by using immigration databases and often find out that quite a few of the so-called minor offenders have prior criminal histories that include more serious offenses. A significant percentage have been deported before, and others have multiple arrests in the same jurisdiction or have fled there from another area.

Even in other ICE programs (as in law enforcement in general) the majority of criminal alien remov-

als result from misdemeanor arrests, not felony arrests. The Costa Mesa, Calif., Police Department, for example, which participates in ICE's Criminal Alien Program (CAP)<sup>23</sup> in lieu of 287(g), provided us with statistics covering 11 months of arrests in 2008. A total of 4,765 adults were booked into the Costa Mesa jail from January to November 2008. The ICE agent assigned to the jail screened 609 foreign-born offenders and placed immigration holds on 309. Of those ordered held pending possible removal, only one-fourth (86) resulted from a felony arrest and three-fourths (223) resulted from a misdemeanor arrest. In Irving, Texas, which also participates in CAP, nearly 12 percent of those arrested were illegal aliens, but only 9 percent of those flagged by ICE screeners were arrested on felony charges at that particular time, while 63 percent were charged with misdemeanors, 16 percent for drunk driving, and 12 percent for driving without a license.

### The Chilling Effect Myth

One of the most common concerns voiced in opposition to 287(g) agreements, and to any form of cooperation between local LEAs and ICE, is that if local agencies become involved with immigration law enforcement, immigrants in their jurisdiction will become so intimidated and fearful of local authorities that they will refrain from reporting crimes or assisting with investigations, leaving these crimes unsolved, and the perpetrators unpunished. Known as the "chilling effect," this theory is promoted by a number of national advocacy groups, including the Police Foundation, the Major Cities Chiefs Association, and the International Association of Chiefs of Police.

The origins of the "chilling effect" theory are unclear, but hard evidence of the phenomenon is non-existent in crime statistics, social science research, or real-life law enforcement experience. National crime statistics show no pattern of differences in crime reporting rates by ethnicity,<sup>24</sup> and the most reliable academic research available, based on surveys of immigrants, has found that when immigrants do not report crimes, they say it is because of language and cultural factors, not because of fear of immigration law enforcement.<sup>25</sup>

As just one example, an analysis of calls for service data from the Collier County Sheriff's Office supports the view of many law enforcement professionals that the "chilling effect" is more of an irrational fear (or a politically motivated invention) than a reality. Collier County consists of several diverse jurisdictions, including North Naples, an area that is largely native-born, and Immokalee, an area with a large immigrant population, both legal and illegal. Over the first year of the coun-

**Table 12. Most Productive 287(g) Agencies (as of November 2008)**

Agency	Arrests per Trained Officer
1. Los Angeles County, Calif.	915.1
2. San Bernardino County, Calif.	459.5
3. Orange County, Calif.	432.9
4. Riverside County, Calif.	385.2
5. Davidson County, Tenn.	297.3
6. Mecklenburg County, N.C.	240.1
7. Cobb County, Ga.	237.2
8. Arizona Dept. of Corrections	182.7
9. Benton County, Ark.	113.0
10. Gaston County, N.C.	109.2

ty's 287(g) program, calls for service dropped 8 percent county-wide — a rate that was consistent with the overall drop in crime that year. Even more important, both North Naples and Immokalee showed the same rate in the drop in calls for service, showing no difference between immigrant and native crime reporting after the program was launched.<sup>26</sup>

An extensive analysis of the effects of the Prince William County, Va., immigration enforcement program, which includes 287(g), reports similar results. Conducted by researchers at the University of Virginia, that study found no significant difference in crime reporting rates between Hispanics and non-Hispanics after the implementation of the county's immigration enforcement initiatives: "[A]mong those who were victims of a crime that occurred in Prince William, the rates of reporting are nearly identical for Hispanics and non-Hispanics, and are statistically indistinguishable within the survey's margin of error."<sup>27</sup>

While rumors abound of illegal aliens who allegedly refrain from reporting crimes out of fear of deportation, we could find no substantiated cases of crime victims who were removed as a result of having reported crimes to authorities, unless the victims happened to be criminals as well. In fact, immigrants coming forward to report crimes is one of the main ways local LEAs and ICE are able to launch investigations against criminal aliens. However, victims and witnesses to crimes are not targets for immigration law enforcement, and this is repeatedly emphasized by ICE and local LEAs in outreach to immigrant communities.

Says Lt. Wes Lynch, of Whitfield County: "Since starting the 287(g) program at our jail, we have had more communication with the immigrant community, not less." The sheriff has included the Mexican consulate and advocates for the immigrant community in discussing the program. Lynch says that immigrants now approach officers at the jail much more regularly and have assisted in locating criminals. For example, one individual they suspected might be an illegal alien came

to the jail to report the return to the community of a drug dealer who had already been removed once before as an aggravated felon, enabling them to prosecute him on criminal immigration charges as a penalty for re-entry. Another community member, a naturalized citizen, came forward after the 287(g) program was launched to report a case of immigration-related marriage fraud.<sup>28</sup>

The 287(g) training increases local officers' awareness of when they should consider the immigration status of crime victims — not for the purpose of removal, but to access the various special protections available to victims, witnesses, and informants under immigration law. For example, someone who is a victim of a gang crime (or any crime) who happens to be an illegal alien might be needed to testify or otherwise assist in the prosecution of the criminal. If the alien lacks status, he is subject to removal at any time. To ensure that does not happen prematurely, the local agency can work with ICE to arrange special status, temporary or otherwise, until the case is resolved. These tools have proven to be a much more powerful way to encourage cooperation from the immigrant community than non-cooperation or sanctuary policies.

Most agencies with 287(g) programs have active outreach programs in place to help ensure that community leaders understand the goals of the program and how the immigration authorities will be used. Law enforcement managers typically invite representatives of foreign consulates to observe how officers with 287(g) authority carry out their duties, and they report that the consulates are usually satisfied that the program will not be misused. Our research turned up no instances where a foreign consulate tried to block a 287(g) program. The opposition usually comes from local cause groups or branches of national advocacy organizations. One local 287(g) program manager stated that he had invited 287(g) opponents to ride along with his officers to observe operations, but had no takers. All LEA representatives we spoke with agreed that agencies participating in 287(g) should work with community advocates to help them understand that they should not stoke fear in the immigrant community by perpetuating the myth of the "chilling effect."

### Foreboding New Hurdles

The Democratic takeover of Congress in 2006 has produced a serious threat to the 287(g) program. Key Democratic leaders, such as the liberal chairman of the House Appropriations homeland security subcommittee, Rep. David Price (D-N.C.), have moved to cut funding for it after three years of growth under the Republican

**Table 13. New 287(g) Agreements**

Gwinnett County (Ga.) Sheriff's Dept.	Jail
Rhode Island Dept. of Corrections	Jail
Delaware Dept. of Corrections	Jail
Monmouth County (N.J.) Sheriff's Office	Jail
Morristown, N.J., Police Dept.	Inv.
Mesa, Ariz., Police Dept.	Inv.
Florence, Ariz., Police Dept.	Inv.
Guilford County (N.C.) Sheriff's Office	Combo
Charleston County (S.C.) Sheriff's Office	Jail

Congress and Bush administration. In the fall of 2008, a fight ensued in committee, breaking out along party lines. Republican appropriators attempted to amend the legislation and preserve the integrity of the program, but the Democratic majority voted against 287(g).

While the appropriations process largely broke down in 2008, the Homeland Security appropriation had passed through the committee. The bill was widely viewed as containing the policy priorities and spending allocations to be enacted early in 2009, as the new Congress and administration both came to power. The bill the House committee reported was craftily worded, and appropriations staff say it included no money for 287(g). The committee bill and its accompanying report (an explanatory document) limited FY 2009 enrollment of newly participating state and local police agencies. The bill (HR 6947, Department of Homeland Security Appropriations Act, 2009 (Reported in House), U.S. Immigration and Customs Enforcement, Salaries and Expenses) told Homeland Security it could not “enter into any agreement delegating law enforcement to any state or political subdivision of a state as authorized under section 287(g), other than at a jail, prison, or correctional institution ...” In other words, no patrol, task force, or investigative programs were to be approved. Any new 287(g) agreements would have to “maximize the identification of aliens who are unlawfully present in the United States and have been convicted of dangerous crimes.”<sup>29</sup>

In late 2008, Congress passed a continuing funding bill for FY 2009 that included \$5.4 million (the same level as the prior year) for launching new 287(g) programs. However, the committee report’s constraints applied.

In 2009, the Democratic Congress stepped up its efforts to stifle state and local involvement in immigration enforcement, and the 287(g) program in particular. The House Homeland Security and Judiciary Committees held hearings to raise questions about the program. In January, the Government Accountability Office (GAO), a congressional investigatory arm, issued an audit report that played to the new majority’s disposition by suggesting (erroneously) that the program was designed to focus on identifying aliens who have committed “serious” crimes and recommending that ICE supervise the local partners more closely to make sure this is the result.<sup>30</sup> The auditors inexplicably assumed, without substantiation from those who created and supported the 287(g) program over the years or the program participants, that the performance objectives and results should be evaluated in terms of ICE’s institutional interests and priorities, rather than those of the local partner

agencies. Despite this major analytical error, the GAO report has been used by DHS Secretary Napolitano, congressional Democrats, and other immigration law enforcement minimalists to justify further steps to try to constrain how the local partners can use their delegated immigration authority.

The FY 2010 funding further constricts the 287(g) program. House appropriators, armed with the GAO report, proceeded to “require ICE to cancel any 287(g) agreements” where supposed violations of the MOA have occurred. They devoted much funding to “expand oversight,” praised the administration’s move toward uniformity in 287(g) agreements, and ordered ICE to re-negotiate all existing MOAs.<sup>31</sup>

The Obama administration in July 2009 announced a new MOA template for all participating agencies, and gave them 90 days to sign the new version. At this writing, none has gone into effect, so it is unclear how the new rules will affect the existing programs, if at all. While ICE reportedly has adamantly refused to make even the smallest revisions to the new MOA, a number of the agencies are negotiating side letters that will individualize the new agreements.

In general, the new MOA tries to constrict local officers’ use of the immigration enforcement authority for investigative purposes to situations that the ICE supervisors can monitor more easily, a move clearly intended to discourage use of the authority for “random street stops” (which were non-existent anyway). It asks jurisdictions to align their use of 287(g) authority with ICE’s priorities for the removal of illegal aliens, which give priority to the most serious offenders. It spells out more specifically the level of ICE supervision expected for each local program. It requires local agencies to pick up some of the technology and equipment costs for database access, which could turn out to be a hardship for some agencies, especially the smaller ones ICE would like to discourage. It requires local agencies to track the nature of the offenses committed by aliens arrested, but forbids them from disclosing this information to the public unless ICE approves. The release of all information related to 287(g) programs will be controlled by ICE. This last provision has been particularly controversial, as some states have strict open records laws, and many participating agencies have invited public scrutiny of their programs to help defuse criticism from opponents.

Even before the new MOA was released, ICE announced to its 287(g) partners that it would begin to limit more strictly the number and type of criminal aliens that it would take into custody for removal. Senior ICE managers reportedly told participating agencies in a conference call in June 2009 that the agency generally

would no longer accept custody of “minor” offenders so that they could preserve limited enforcement resources for “serious” criminals. A number of participating agencies have expressed concern about this approach, noting that many of the so-called “minor” criminals are actually habitual offenders and/or have serious prior offenses.<sup>32</sup> Besides, while their state and local offenses might be considered minor to ICE, still they are a burden to the local community and its criminal justice system, and as illegal aliens, they are subject to removal, whether they commit other crimes or not.

The Obama directive is plainly an attempt to curb the flexibility Congress originally built into the program for designing locally appropriate solutions. The changes give ICE headquarters and the DHS front office the opportunity to second-guess how local agencies use the authority, and also prevent them from going beyond any policy limits ICE might wish to establish on enforcement. For example, ICE might decide that arrests of illegal aliens involved in reckless driving, identity theft, business licensing or zoning violations, vandalism, or small-time street gang activity are of no interest to the federal agency, regardless of the impact these crimes have on quality of life in the local community.

The new MOA brings to the 287(g) program a level of regulation and control that implies a certain distrust of the local agency partners. For example, under the new draft template for Standard Operating Procedures for Task Force Officers, ICE is proposing that local 287(g) task force officers may not even ask an alien about his status without first obtaining permission from the ICE supervisor, “who will approve the exercise only to further the priorities of removing serious criminals, gang members, smugglers, and traffickers.” This proposed requirement is puzzling, since most local law enforcement agencies already permit their officers to question aliens who are in custody about their status (courts have found that such questioning is not a civil rights violation) and these officers do not need anyone’s permission to call ICE’s Law Enforcement Support Center with the same question. Since there have been no documented cases of “loose cannon” local officers to date, this distrust seems to be based on ideological or political views on how immigration law enforcement should be carried out (or not carried out) rather than on any actual problems with how the program is being implemented.

While it remains to be seen what effect the proposed changes will have on existing programs, the clear intent of the current congressional majority and Democratic administration toward this program is worrisome to the law enforcement-minded. The House appropriations committee and the policy committees of jurisdic-

tion are clearly bent on trying to limit the contributions of state and local law enforcement to immigration law enforcement.

Still, participating agencies are enthusiastic about continuing with 287(g), and believe that the new MOA will not significantly affect their programs. For one thing, every agency already was focused on identifying criminal aliens who pose a threat to public safety as the highest priority. Those aliens who have been identified for removal under 287(g) have already been involved in other lawbreaking, or suspected of involvement, in addition to their immigration violations. While some of the representatives of the agencies we spoke with about the changes might resent the micromanagement and implications of abuse, others are more concerned about ICE shifting some of the start-up costs to the local partners. But the biggest concern seems to be about the consequences of ICE declining to take custody of many of the criminal aliens they identify.

## Recommendations

It is clear from ICE managers’ reaction to the level of interest in securing 287(g) agreements that the federal agency has felt overwhelmed. They know that they cannot meet the demand for enrollment and fear that 287(g) expansion will drain ICE resources and distract field offices from established priorities. Rep. Smith stated at a Judiciary Committee hearing that ICE had received 69 new applications in fiscal 2007 and rejected the majority, supposedly because of funding limitations.<sup>33</sup>

Even more disconcerting, under cover of “prioritization,” the new DHS and ICE leadership seem intent on minimizing immigration law enforcement so that it applies only to the most serious and egregious offenders, and passing on the rest. Making it difficult for the local agency partners to exceed ICE’s self-imposed limitations seems to be a key part of this agenda.

Most everyone would agree that removing criminal aliens should be one of the highest priorities, but it should not be the only priority. And, the new agency leadership (supported by key Democratic leaders in Congress) is explicitly rejecting the notion that routine enforcement of immigration laws has a role to play in maintaining public safety and disrupting serious criminal activity (the “broken windows” approach). Many believe that by devoting some resources (or allowing local agency partners to do so) to enforcing more routine immigration offenses, ICE could thereby reduce the number of not only routine, but repeat and more threatening immigration offenses — not to mention reducing corollary offenses, such as ID theft, document fraud, gang

crimes, etc. While such an approach might mean greater demands on resources in the short term, the reduction in the medium- and long-term of all kinds of lawbreaking, including immigration law-breaking, would translate into long-term savings.

To narrow the significant gaps between local needs and ICE capacity and DHS policy goals, some adjustments are necessary that would support the public safety goals everyone can agree on while providing local agencies with the ability to supplement what ICE is willing and able to accomplish.

## *Resources for Detention*

First and foremost, ICE needs to have the necessary resources to support a healthy, expanding 287(g) program. The most significant tangible matter to be addressed is increased funding for detention space. According to nearly every law enforcement agency we asked, the lack of funding for detention space is the biggest obstacle to increasing removals of criminal aliens. Without funding for detention space, agencies are forced to practice triage. They end up releasing many of the criminal immigration violators they identify, even those who may be considered serious and/or repeat offenders.

The aforementioned GAO report analyzed 2008 data from 25 participating 287(g) agencies. It found that these agencies had charged 43,000 aliens with immigration violations. ICE took custody of 34,000 of these aliens (79 percent). Of the aliens turned over to ICE, 44 percent (15,000) were offered voluntary departure. Fewer than half (14,000, or 41 percent) were placed in removal proceedings. The remaining 15 percent were either released or sent to prison.<sup>34</sup>

Prior government studies have shown that only a fraction of those who are not detained prior to removal will actually leave the country, and that a large share of those offered voluntary departure do not depart.<sup>35</sup> Therefore, the lack of funding for detention space severely diminishes the effectiveness of 287(g) and represents a return to the “catch and release” policies of several years ago. It is hard to see how this approach will increase the number of criminal aliens removed, which is the Obama administration’s stated objective for the program.

For many local agencies, having to release the removable criminals they identify defeats the purpose of having the 287(g) authority and can have tragic consequences, as many of these individuals re-offend. For example, Davidson County has reported that 75 percent of the vehicular homicides committed by illegal aliens would have been prevented if the illegal alien had been deported on the basis of prior misdemeanors com-

mitted.<sup>36</sup> When ICE issues the order to release those it cannot hold, it essentially takes responsibility for those criminals and the crimes they might later commit. If past experience is any guide, this policy is likely to backfire on ICE as many of these offenders continue or even escalate their criminal behavior, and local agencies will be able to document that ICE had its chance to remove them and failed to do so. It remains a mystery to many observers why ICE prefers to accept this responsibility rather than seek additional resources to help do its job.

Several states, including Virginia, North Carolina, and South Carolina, which are anxious to have more criminal aliens removed, have submitted practical and detailed proposals to ICE offering to construct additional facilities, at no up-front cost to ICE, in anticipation of receiving future contracts or reimbursement for housing the surplus of immigration detainees. However, ICE apparently has not acted on many of these proposals, to the great frustration of these state governments.

In the case of South Carolina, after ICE told county sheriffs in a series of discussions that ICE would much prefer to have state-wide or regional cooperative agreements, in November 2007 a group of state law enforcement agencies submitted a detailed and innovative proposal to deal with the state’s criminal aliens.<sup>37</sup> They proposed to create three regional detention centers strategically located throughout South Carolina to house criminal aliens for ICE before they are removed. The centers would have been staffed by the South Carolina Department of Corrections, and would have consolidated the criminal alien population from 46 counties for expedited processing and removal, producing cost savings for both the county jails and ICE. The plan would also have eliminated the need for each county to have a separate 287(g) program.

The proposal sat at ICE for seven weeks before it received a response. The ICE response was that the proposal needed to be submitted directly to the ICE assistant secretary, which the state representative did immediately. Four months later, ICE agreed to discuss the proposal in a conference call, at which time they agreed to review the proposal. At the time of this writing, the proposal apparently is still in limbo.

Certain federal legislation would complement and enhance the 287(g) program, particularly with regard to adding resources. For example, H.R. 2406, the Charlie Norwood CLEAR Act of 2009, provides grants for state and local costs associated with arresting, detaining, and transporting illegal and criminal aliens.

## ***Asset Forfeiture***

While immigration law enforcement more than pays for itself by opening up job opportunities for legal workers and through fiscal savings for the community in criminal justice, health care, education, and other social services, because these savings are rarely directed back to the law enforcement agencies, it is important to find new sources of revenue to fund immigration enforcement. One solution is to get the immigration offenders to pay for immigration enforcement. For example, asset forfeiture programs should be reviewed to identify opportunities to create stronger incentives for local participation. Similarly, the assets and proceeds of alien smuggling rings should be seized and used to fund 287(g) and state/local immigration enforcement efforts.

Extending existing asset forfeiture laws (at the federal and state levels) to immigration and illegal employment violations would provide another source of funding for immigration law enforcement and also add another element of deterrence to discourage potential violators. When criminals rob banks, embezzle, extort funds, or sell drugs, and the government finds the money generated from the crime, it does not allow the criminal to keep the money. Similarly, those who profit from illegal immigration and illegal employment, including the illegal aliens, should not be allowed to retain earnings and other assets obtained illegally and through willful violation of U.S. laws.

Federal and local law enforcement agencies have been appropriately forceful in recent years in targeting the assets of aliens involved in drug smuggling, human smuggling and trafficking, large-scale illegal hiring, and other types of organized crime. These agencies should also consider targeting the assets of individual aliens who have violated numerous federal and state laws, far beyond the initial crime of illegal entry or visa overstay, in the pursuit of illegal employment and residence here. These offenses typically include: completing fraudulent I-9 forms to falsely establish work authorization; using false, stolen or fraudulently obtained Social Security numbers; using fake immigration documents; failing to file income tax returns, or filing with false information; using fictitious information to obtain bank accounts, mortgages, and other financial services; and using fraudulent documents to obtain driver's licenses or other official identification. The assets that would be potentially vulnerable to seizure would be those that were obtained as a result of illegal employment and the accompanying identity crimes, and might include cash and other financial assets, belongings, and real property, whether

personal or used for a business such as landscaping or cleaning.

The passage of laws explicitly authorizing the use of asset forfeiture for immigration and illegal employment violations would significantly raise the stakes for illegal employment and decrease the attractiveness of illegal settlement here. The law should say that any aliens who enter the United States illegally, or who are in the United States illegally after having stayed beyond the authorized duration of stay, or who have otherwise violated the terms of entry and who subsequently obtain employment and violate any of the laws against identity theft, document fraud, or false statements shall forfeit to the government any money or other assets earned or obtained as a result of their illegal employment or identity-related crimes. Some states may be able to utilize existing laws for this purpose.

Asset forfeiture should be allowed by states and localities even if the federal authorities decide not to pursue it in a given case if they regard the assets of average illegal aliens as too paltry. In those cases, an expedited process should be available to states and localities, such as civil judicial (*in rem*) forfeiture, where no charge against the owner is necessary, and the burden of proof is less. This process would stipulate that once an alien is deemed unlawfully present and/or ordered removed by a qualified agency, that decision is sufficient and unreviewable. The only question at issue in this small-claims asset forfeiture proceeding would be determining which possessions belong to the alien in question and are thus subject to forfeiture. There is already an established procedure for seizure and forfeiture that provides due process to property owners and innocent co-owners, such as family members.

## ***Training Alternatives***

To some extent, ICE has legitimate concerns about having enough resources to fulfill its side of the job of 287(g) enforcement. However, ICE could make existing dollars go farther if it spent its funds more wisely. ICE needs to explore alternative ways to deliver 287(g) training. Congress in several bills and committee reports over the past several years has urged ICE to maximize its use of computer-based learning for much greater cost-efficiency. In addition, ICE could meet the needs of many more state and local agencies by providing basic immigration law training even without the delegation of authority.

The Federal Law Enforcement Training Center, now part of Homeland Security, has an excellent distributed learning program that already serves state, local,

and tribal law officers. The Justice Department's Community Oriented Policing Services (COPS) Office also provides quality training, some of it computer-based. In fact, COPS piloted a Web-based training program for 500 law officers, called Basic Immigration Enforcement Training (BIET).<sup>38</sup>

The officers in the BIET pilot project took a number of courses, such as the basic concepts of immigrant and nonimmigrant status and their corresponding forms of identification, consular notification, and foreign naming conventions. Most participants completed the eight hours of training within a day. The average score upon completion was 87.37 percent. Congress should authorize BIET and expand this program at least to all of the officers in each 287(g) participating agency, or to those agencies that have applied for 287(g) and are awaiting completion of the MOA, or as an ICE-ACCESS offering.

There are alternatives for those agencies that prefer in-person training. Some state and local law enforcement agencies have given their officers a basic immigration law training course offered by homeland security consulting firms and taught by retired immigration agents.<sup>39</sup> Promoting, and even underwriting, these alternatives would reach more local agencies in a cost-effective manner, and also help unplug the bottleneck in the 287(g) program. The COPS office of the Justice Department could be assigned to serve as a clearinghouse of accredited and acceptable training options.

In addition, agencies should consider using some of the many grants available through the Department of Justice, such as COPS, VAWA, or Byrne grants, to fund one of these basic training options.

Also, two county correctional 287(g) agencies with high-volume criminal alien processing suggested to us that it would be beneficial for ICE to offer a version of the 287(g) training for the correctional staffers who perform mainly data entry, database queries, and paperwork related to processing aliens. These personnel do not make arrests or question aliens, and thus do not need full delegation of authority, but do need access to ICE databases.

### ***Protecting State and Local Officers***

Section 287(g) of the INA could better help protect and empower state and local officers. Congress should clarify that officers at the state and local level who are trained in the 287(g) program may interrogate suspects about their immigration status, just as any other state or local officer may do, and not necessarily subject to prior approval by the ICE supervisor.

Further, clarification should be made that the program must be administered so as to recognize the flexibility and local initiative it intends. ICE should be restrained statutorily from placing unreasonable and bureaucratic restraints on participating local agencies. For example, Congress should expressly require ICE to offer the task force and highway patrol options, and prevent ICE from imposing its "worst of the worst"-only resource prioritization scheme on local agencies.

As well, ICE should be discouraged from rejecting 287(g) applications. Such rejections go against congressional intent for this measure. ICE should be required to craft a reasonable list of steps or a "road map" leading to qualification that every agency theoretically can meet if it has an interest, and work cooperatively with agencies that strive to qualify. In addition, ICE should be required to act on each agency's application without unreasonable delay, and communicate to each agency the reasons for any delay.

In addition, strong measures should be adopted that safeguard 287(g) participants, both agency and officer, from legal intimidation tactics. Liability protections should be adopted that disarm legal advocacy tactics of threatening lawsuits, filing intimidating lawsuits, pursuing legal sanctions for thin allegations of "profiling" or other charges against either agency or officer. PR ploys via the legal system should not stand any chance of succeeding against law enforcement agencies working to assist in the enforcement of immigration laws as they affect the state and local level. Broad liability protections should be afforded 287(g) officers and agencies, federal tort claims statutory protection should automatically accompany these entities in the event of a legitimate claim, and litigation specialists engaged in intimidation efforts should be precluded from collecting any legal fees from the targeted public entity or officer.

### ***Changing the Culture***

ICE leadership needs to acknowledge that the agency's success depends on the full partnership of state and local law enforcement agencies, and reward those federal officers who display cooperation and responsiveness toward state and local interests. ICE agents should be held accountable for their relationships with state and local partners.

### ***Developing a Professional Class at the State and Local Level***

Taking the 287(g) program to the next level should entail developing a cadre of police officers at virtually every police agency at the state and local level who specialize in

immigration law enforcement, much as agencies today have drug, gang, or domestic violence units. This would mean a small number of officers per agency, say two to 10 officers depending on the size of the department, who have been fully trained through 287(g).

These officers would serve as liaisons to federal immigration authorities. They would be knowledgeable about immigration enforcement and thus could tap immigration databases, help their fellow officers navigate a query with the Law Enforcement Support Center, assess how best to deal with a given alien in custody, screen inmates for alien status, and advise prosecutors and detectives on how they might best use immigration law tools.

This approach would relieve frustration with ICE limitations, improve cooperation, and add sophistication to local enforcement actions involving aliens and immigration offenses. Congress should create a program similar to the original COPS program, enabling state and local police agencies to hire more officers and train a cadre expert in immigration issues. Funding for these new hires should be shared by federal and state or local governments.

## Conclusion

The 287(g) program has been a welcome addition to U.S. immigration law. It represents the forward thinking of serious lawmakers. The program's success, once congressional advocates helped advance it despite bureaucratic resistance, has been significant. However, the 287(g) program could be much bigger, fine-tuned for greater efficiency and effectiveness, and augmented in ways that represent maturing. 287(g) has achieved the success it has is due to sustained commitment from Congress, as well as the administrative branch waking up a bit to that promise. State and local jurisdictions are, by and large, willing to do their part in immigration enforcement. The gains of 287(g) will certainly be lost if the troubling change in congressional priority and ICE's bureaucratic games persist.



## End Notes

<sup>1</sup> Kris Kobach, *State and Local Authority to Enforce Immigration Law*, Center for Immigration Studies, June 2004, <http://www.cis.org/StateEnforcement-LocalEnforcement>.

<sup>2</sup> Rep. Lamar Smith (R-Texas), hearing of the House Homeland Security Committee, March 4, 2009, at [http://judiciary.house.gov/hearings/printers/111th/111-19\\_48439.PDF](http://judiciary.house.gov/hearings/printers/111th/111-19_48439.PDF).

<sup>3</sup> U.S. Immigration and Customs Enforcement Fact Sheet, "Secure Communities," March 28, 2008, accessed at [www.ice.gov](http://www.ice.gov) (no longer available).

<sup>4</sup> ICE, *Fiscal Year 2008 Annual Report*, p. iii, [http://www.ice.gov/doclib/pi/reports/ice\\_annual\\_report/pdf/ice08ar\\_final.pdf](http://www.ice.gov/doclib/pi/reports/ice_annual_report/pdf/ice08ar_final.pdf).

<sup>5</sup> Examples of completed MOAs are available on the Internet; see <http://www.ci.costa-mesa.ca.us/council/agenda/2005-12-06/120605%20Consideration%20of%20MOU%20with%20Immigration%20and%20Customs%20Enforcement%20Bureau%20Attachment%203.pdf>.

<sup>6</sup> Some 287(g) agencies have successfully addressed the illegal employment problem by targeting associated crimes such as document or identification fraud.

<sup>7</sup> "Sheriff's Message on the Status of the 287(g) Program and Results of the ICE 28-day Surge," <http://www.gwinnettcountysheriff.com/>.

<sup>8</sup> Emily S. Achenbaum, "Lake County sheriff continues push for power to deport undocumented immigrants," *Chicago Tribune*, September 19, 2008.

<sup>9</sup> ICE, "Secure Communities Initiative Fact Sheet," [http://www.ice.gov/pi/news/factsheets/secure\\_communities.htm](http://www.ice.gov/pi/news/factsheets/secure_communities.htm).

<sup>10</sup> Department of Homeland Security, Office of Professional Responsibility, Management Inspections Unit, "287(g) Program Review Findings: Maricopa County Sheriff's Office, Special Agent in Charge/Phoenix, DRO Field Office/Phoenix," September 15-19, 2008, p. 9.

<sup>11</sup> Ashley Dickson, "State patrol marks successful first year in illegal immigrant arrests," *The Summit Daily News* (Keystone, Colo.), July 30, 2008, <http://www.summitdaily.com/article/20080730/NEWS/91909104/0/FRONTPAGE>.

<sup>12</sup> Todd James, Colorado State Patrol Immigration Enforcement Unit, interview on September 16, 2009.

<sup>13</sup> Nicholas C. Stern, "Immigration Suspects Growing Part of Jail Population," *Frederick News Post*, October 7, 2008.

<sup>14</sup> For more on using immigration law authorities to tackle gang and other crimes, see Jessica Vaughan and Jon Feere, "Taking Back the Streets: ICE and Local Law Enforcement Target Immigrant Gangs," Center for Immigration Studies, October 2008, <http://www.cis.org/ImmigrantGangs>.

<sup>15</sup> Collier County Sheriff's Office Criminal Alien Task Force, "An Overview of the 287(g) Program: Strategy, Outcomes and Benefits of the Partnership," [www.colliersheriff.org](http://www.colliersheriff.org).

<sup>16</sup> Government Accountability Office (GAO), *Immigration Enforcement: Better Controls Needed over Program Authorizing State and Local Enforcement of Federal Immigration Laws*, GAO-09-109 (Washington, D.C.: January 2009).

<sup>17</sup> See, for example, "Large Financial Costs of Immigration Enforcement Divert Resources from Traditional Law Enforcement Activities," in Anita Khashu, *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties*, Police Foundation, 2008, p. 26.

<sup>18</sup> "Local Enforcement of Federal Immigration Law and 287(g)," Law Enforcement and Public Safety TV (LEAPS-TV) broadcast on July 28, 2009, available at [www.cis.org](http://www.cis.org).

<sup>19</sup> Ryan Mills, "Special Report: Collier Sheriff, Feds Try to Curb Immigrant Jail Population," *Naples Daily News*, June 30, 2007.

<sup>20</sup> Davidson County Sheriff's Office, "287(g) Two-Year Review," April 16, 2009.

<sup>21</sup> For an example, see documents on the ACLU web site and "Forcing our Blues into Gray Areas," Applesseed Network, at <http://www.applesseeds.net/bPublications/tabid/420/Default.aspx>.

<sup>22</sup> Claudia Corichi Garcia, quoted in *El Sol de Zacatecas*, October 11, 2009, translated in the October 12 edition of *M3 Report*, an e-newsletter published by the National Association of Former Border Patrol Officers.

<sup>23</sup> Under the ICE Criminal Alien Program (CAP), ICE assigns immigration enforcement agents to jails to screen aliens for immigration status.

<sup>24</sup> See Criminal Victimization Statistics, <http://www.ojp.usdoj.gov/bjs/abstract/cv05.htm>.

<sup>25</sup> Robert C. Davis and Edna Erez, "Immigrant Populations as Victims: Toward a Multicultural Criminal Justice System," *National Institute of Justice: Research in Brief*, May 1998, and Davis, Erez, and Avitable, "Access to Justice for Immigrants Who Are Victimized: The Perspective of Police and Prosecutors," *Criminal Justice Policy Review* 12:3, September, 2001. Davis and Erez

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<sup>26</sup> Michael J. Williams, Commander, Legal Affairs, Collier County, Florida Sheriff's Department, in the aforementioned LEAPS web cast.

<sup>27</sup> Thomas M. Guterbock et al., *Evaluation Study of Prince William County Police Illegal Immigration Enforcement Policy: Interim Report 2009*, Center for Survey Research, University of Virginia and Police Executive Research Forum, August, 2009, p. 51-2, <http://www.pwcgov.org/docLibrary/PDF/10636.pdf>.

<sup>28</sup> Lt. David Wesley Lynch, LEAPS-TV, *loc cit*.

<sup>29</sup> James R. Edwards, Jr., "House Appropriations Hurts Immigration Enforcement," *Human Events*, July 14, 2008. Available at <http://www.humanevents.com/article.php?id=27488>.

<sup>30</sup> GAO report, *op. cit.*; also see Richard M. Stana, Testimony before the Committee on Homeland Security, March 4, 2009, GAO-09-38IT.

<sup>31</sup> House Committee on Appropriations report on Department of Homeland Security Appropriations Bill, 2010, "State and Local Programs" (H.Rpt. 111-157).

<sup>32</sup> See "ICE Adopts Catch and Release for 287(g)," Jessica Vaughan, June 29, 2009, <http://cis.org/Vaughan/CatchandRelease-287%28g%29>.

<sup>33</sup> [http://judiciary.house.gov/hearings/printers/111th/111-19\\_48439.PDF](http://judiciary.house.gov/hearings/printers/111th/111-19_48439.PDF)

<sup>34</sup> GAO report, *op. cit.*

<sup>35</sup> See, for example, U.S. Department of Justice, Office of the Inspector General, "Voluntary Departure: Ineffective Enforcement and Lack of Sufficient Controls Hamper the Process," I-99-09, March, 1999, <http://www.usdoj.gov/oig/reports/INS/e9909/>.

<sup>36</sup> Davidson County 287(g) report, *op. cit.*

<sup>37</sup> Sheriff P.J. Tanner and Captain Steven Mendoza, "South Carolina Proposal: 287(g) Program," February 22, 2008, <http://www.bcso.net/blog/SCProposal278gProgram.pdf>.

<sup>38</sup> See <http://www.nexportsolutions.com/biet/>.

<sup>39</sup> See, for example, [www.omegasecuresolutions.com](http://www.omegasecuresolutions.com).

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## The 287(g) Program Protecting Home Towns and Homeland

By Jessica M. Vaughan and James R. Edwards, Jr.

**T**his *Backgrounder* examines the 287(g) program's history and its status. How is it being used? Which law enforcement agencies participate? What has the 287(g) program's effect been upon the foreign-born criminal element in those locations where a local agency is involved in 287(g)? We interviewed participating local law enforcement agencies (LEAs), reviewed statistics and reports provided by local LEAs, analyzed data provided by ICE through a FOIA request, and scoured news reports on the program. We begin by recounting briefly the program's origin, then describing its structure. We conclude by offering a number of recommendations. Between those bookends is the story of the 287(g) program's successes, challenges, and potential.

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## Gwinnett says immigration program is working

By [Andria Simmons](#)

The Atlanta Journal-Constitution

4:27 p.m. Wednesday, December 30, 2009

Gwinnett County jailers have detained 286 inmates for possible deportation in the six weeks since they began checking the immigration status of every prisoner.

The Gwinnett County Sheriff's Office began a partnership known as 287(g) with federal immigration officials on Nov. 16. The inmates detained for Immigration and Customs Enforcement had been charged with 629 crimes, including aggravated assault, rape, child molestation, DUI, battery, robberies, drug and traffic charges.

Statistics indicate that 62 percent of the jail's current population of foreign-born inmates are in the country illegally, according to Stacey Bourbonnais, spokeswoman for the Sheriff's Office.

The program is working as officials had hoped, prompting a decrease in the number of inmates from foreign countries being booked into the jail, which may signal that illegal immigrants are moving out of Gwinnett, officials said Wednesday.

"That is certainly the anecdotal evidence at this point," said Gwinnett County Sheriff Butch Conway. "I don't have anything else to tie the drop to."

Over the past six weeks, 1,307 foreign-born inmates were booked into the jail. That's a decrease of 622 inmates compared to the same time frame last year, when 1,929 foreign-born inmates were jailed. Conway said the jail's overall population is down 300 inmates.

"That's never happened since I've been sheriff."

"We've always been on the increase," Conway said. "I keep wanting to pinch myself because I can't believe it's really happening."

The inmates who were detained for ICE hailed from Africa, Colombia, Cuba, El Salvador, Guatemala, Honduras, Mexico and Panama, among other places.

Find this article at:

<http://www.ajc.com/news/gwinnett/gwinnett-says-immigration-program-262391>

Posted: 8:34 PM Jan 12, 2010

## Illegal immigrant, back in jail, now faces deportation

Thanks to the 287(g) program, officials said, an illegal alien who was released from jail after being arrested for burglary and battery in March — now accused of a New Year's Day aggravated assault — will face deportation.

**Gwinnett Daily Post**

**Reporter:** [By Heath Hamacher](#)

LAWRENCEVILLE — The saying goes, “Fool me once, shame on you. Fool me twice, shame on me.”

Thanks to the 287(g) program, officials said, an illegal alien who was released from jail after being arrested for burglary and battery in March — now accused of a New Year's Day aggravated assault — will face deportation.

According to reports, 21-year-old Juan Manuel Catalan, of Buford, was arrested Monday at his Buford home for allegedly striking a man on the head with a knife in the Jan. 1 incident. A Gwinnett County Sheriff's Department spokeswoman said Catalan, a Mexico native, was found inside the Power Avenue apartment hiding in a back bedroom.

On March 17, Catalan was arrested for simple battery and robbery but posted an \$8,100 bond two days later, records show.

At that time, the 287(g) program had yet to be implemented (it began on Nov. 16) and only one Immigration and Customs Enforcement agent was on hand to screen inmates randomly.

Now, 18 deputies trained in the program screen everyone who is booked into the facility. Conway believes the relatively new program is paramount in preventing illegals from slipping through the cracks of the judicial system.

“This is exactly why we needed 287(g),” said Sheriff Butch Conway. “It's doing what it is designed to do: identifying criminals that are illegally here in our country.”

**From:**  
**To:**

(b)(6), (b)(7)c

**Subject:** FW: Agency ORI list  
**Date:** Tuesday, January 19, 2010 8:45:34 AM  
**Attachments:** [Agency ORI list.xlsx](#)

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Attached is an updated NC ORI list.

(b)(6), (b)(7)c

Supervisory Detention & Deportation Officer  
Charlotte, NC  
704-672-<sup>(b)(6), (b)(7)c</sup>

---

**From:** (b)(6), (b)(7)c  
**Sent:** Friday, January 15, 2010 3:58 PM  
**To:** (b)(6), (b)(7)c  
**Subject:** Agency ORI list

Good afternoon (b)(6), (b)(7)c

I hope you are doing well. I apologize for failing to send the agency ORI list to you. It slipped by me until (b)(6), (b)(7)c mentioned it to me during a meeting we had yesterday. I hope you find this helpful.

(b)(6), (b)(7)c

**From:** [redacted]  
**To:** [redacted] (b)(6), (b)(7)c  
**Cc:**  
**Subject:** FW: CAP/287g Ops in NC; briefing RE: NC  
**Date:** Monday, January 11, 2010 6:21:20 PM  
**Attachments:** [North Carolina Operational Area August 09.doc](#)  
[Report FOD Monthly Report NC 1-11-10.xls](#)  
[image009.gif](#)  
[image010.gif](#)  
[image011.png](#)  
[image012.jpg](#)  
[image013.gif](#)  
[image001.jpg](#)

See below and attached

**From:** [redacted] (b)(6), (b)(7)c  
**Sent:** Monday, January 11, 2010 6:16 PM  
**To:** [redacted] (b)(6), (b)(7)c  
**Cc:**  
**Subject:** RE: CAP/287g Ops in NC; briefing RE: NC

This is a little dated, but is it helpful (attached as "North Carolina Operational Area..."? Also attached are some more recent stats for 1<sup>st</sup> QTR FY 2010 "Report FOD Monthly..."

August 11, 2009

**DRO Atlanta – North Carolina Operational Area**

Detention and Removal Operations currently has [redacted] (b)(7)e employees located in five different areas of North Carolina, running seven different programs. Currently in North Carolina we have Fugitive Operations, 287g program, Criminal Alien Program (CAP), Secure Communities (SC), Violent Criminal Alien Section (VCAS), Non-detained Unit and The Detention Management Unit.

Fugitive Operations - North Carolina currently has [redacted] (b)(7)e ugitive Operations Teams located in [redacted] (b)(7)e [redacted] (b)(7)e These Teams work solely on those cases identified as fugitives. They attempt to locate, apprehend, process and remove those aliens who have failed to surrender for removal or comply with a removal order or have an unexecuted final order of removal.

287g Program – North Carolina currently has eight 287g Programs in place, seven in North Carolina and one in South Carolina. This program refers to authority under the Immigration & Nationality Act’s Section 287(g), which allows for training/deputizing state and local officers to perform ICE related duties, primarily in a correctional institution setting. North Carolina’s 287g programs are located at Wake, Mecklenburg, Gastonia, Cabarrus, Alamance, Henderson, Cumberland and York County.

Criminal Alien Program (CAP) – North Carolina currently has Officers/Agents that are assigned to screen inmates in federal, state and local prisons and jails. The Officer/Agent interviews, place detainers and process Criminal Aliens for removal before they are released to the general public. North Carolina currently has [redacted] (b)(7)e CAP teams, [redacted] (b)(7)e in Charlotte, [redacted] (b)(7)e in Raleigh and [redacted] (b)(7)e in Hendersonville. [redacted] (b)(7)e [redacted] (b)(7)e

Secure Communities (SC) – North Carolina currently has twelve Secure Community Counties with nine more scheduled to come online in phase II of this Program. The Secure Communities Program identifies criminal aliens through modernized information sharing using Biometric (fingerprints) Identification. The current counties participating in North Carolina are Hendersonville, Buncombe, Gastonia, Cabarrus, Catawba, Wake, Cumberland, New Hanover, Orange, Duplin, Durham and Harnett. The nine counties scheduled to come online during phase II are Mecklenburg, Halifax, Dare, Lee, Columbus, Brunswick, Jackson, Union and Transylvania.

Violent Criminal Alien Section (VCAS) – North Carolina has Officers/Agents assigned to this unit, responsible for targeting federal violations within its statutory and regulatory authority, primarily focusing on, but not limited to, violations of 8 USC 1326, Re-entry after Deportation committed by those aliens encountered through the Criminal Alien Program, Fugitive Operations and the 287g Program. These cases are presented to the United

States Attorney's Office (USAO) for prosecution.

Non-Detained Unit – The Charlotte Sub-Office (CLT) Non-Detained Unit (NDU) is responsible for conducting legal research to support decisions on deportation/exclusion cases and assist attorneys in representing the Government in court actions. Additionally, it is responsible for working with other Federal law enforcement officials to identify, locate and/or apprehend aliens; prepare, present and defend deportation or exclusion proceedings; and ensure the physical removal of aliens from the United States. This involves working with both criminal and/or non-criminal aliens in the United States at various stages of their deportation/exclusion proceedings. Furthermore, CLT NDU is responsible for conducting complex investigations; conducting surveillance work; preparing investigative reports; and assisting in complex, difficult, or sensitive seizures. Moreover, the CLT NDU is responsible for alternatives to detention programs and bonds. The area of responsibility for the CLT NDU is the entire state of North Carolina. Currently, the CLT NDU staff consists of (b)(7)e Supervisory Detention & Deportation Officer (b)(7)e Deportation Officers, and (b)(7)e Detention Removal Assistant.

The CLT NDU is also responsible for all Alternatives to Detention (ATD) for the state of North Carolina. NDU is tasked with providing alternatives to secure detention while also providing a cost effective alternative to secure detention that improves rates of appearance at interviews, hearings, and compliance with immigration judges' final orders. This is accomplished with supervision technologies that include, but are not limited to, non-removable bracelets using radio frequency (RF) or GPS (active and passive) that operate either over landline or cellular technology, and multi-lingual telephonic reporting.

Detention Management Unit - The Charlotte Sub-Office (CLT) Detention Management Unit (DMU) is responsible for all Detention Management for the state of North Carolina. The CLT detention system consists of 2 local facilities, Alamance County Jail and the Mecklenburg County Jail, operating under intergovernmental service agreements which are funded through ICE reimbursement. The average length of stay for detainees placed in either facility is 7 days. On arrival at either facility, CLT DMU reviews cases, ensures appropriate book-in procedures are adhered to, reviews files for legal sufficiency, reviews appropriate processing procedures, schedules transfers and is also responsible for Detention Standards Compliance.

CLT DMU assists DIHS in providing assistance with patient care at both facilities. CLT DMU also assist DIHS in overseeing managed care services to ICE detainees housed at jails, local state agencies, and other IGSA detention facilities in North Carolina. Finally, CLT DMU assists DIHS with medical escorts, facility health assessments and reviews.

Successes:

1. North Carolina ICE/DRO has a great working relationship with the North Carolina Sheriff's Association (NCSA). We attend their quarterly Executive Steering Committee Meetings to answer questions and to get feedback in regards to our current programs. This partnership has allowed our 287g and Secure Communities programs to succeed at a greater rate than most other states.
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	FY 2008	FY 2009 YTD
Total Caseload	7,228	10,874
Non-Criminal	6,556	10,026
Criminal	672	848
Fugitives	4,775	3,189
Non-Fugitives	2,453	7,685
Bonds	326	461



Bond Amount	\$2,025,750.00	\$2,370,500.00
Total Active Osup Cases		487

For FY 2009, the CLT NDU has already superseded last year's calendar year bonds.

The current total Order of Supervision cases for the CLT NDU are 487. However, due to DRO's current budget situation, we will see an increase in this number.

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The CLT DMU ensures DRO is compliant with its own NDS, civil rights and minimal costs. In addition to this responsibility, the CLT DMU is also responsible for scheduling detainee pick ups and ensuring they are completed in an expeditious and efficient manner. The scheduling of pick ups is a major man power issue as it involves long distances. Although CLT DMU was challenged by a lack of staff, the chart below represents the number of pick ups for calendar year 2008.



The chart below represents the pick ups, number of aliens arrested and total number of aliens transferred from CLT for calendar year 2009, to date. As is evident, for calendar year 2009, CLT DMU is on track to supersede

2008's statistics.



Challenges:

1. Office Space – With the staffing increases of DRO in North Carolina, we have seen a enormous problem with office space. We are currently attempting to obtain two separate locations operational, offices in Raleigh – for CAP personnel and Hendersonville – CAP personnel. The Charlotte office has also seen a growth in staff and has requested a separate location within 5 miles of the current office to house the 13 new Secure Community FTE's that we have received.

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4. One of the major challenges the CLT NDU will face in 2009 and beyond is the increase in all of its cases and programs. As bed space becomes more and more of an issue, the NDU anticipates an increase in the programs it is responsible for. This once again goes back to staffing issues.

5. Another challenge is coverage, as the CLT NDU is responsible for the entire state of North Carolina. Often times, an NDU DO will have to cover areas that are 7 hours from Charlotte. To further compound the issue, Alternatives to Detention (ATD) is not a viable option as (b)(7)e

(b)(7)e

6. CLT DMU is currently allocated (b)(7)e EAs on a permanent basis. However, in order to accomplish detention and removal work for a population that has steadily increased, the CLT DMU will require additional permanent

positions or contract pickups. Additionally, with the increase in staff, the CLT DMU will also require additional vehicles.

-  
Reports for Each Program  
 -

North Carolina Fugitive Operations:

<b>FUGOPS</b>	<b>Total</b>	<b>Fug-Crim</b>	<b>Fug-N/Crim</b>	<b>NTA-Crim</b>	<b>NTA-N/Crim</b>
CLT 08'	707	123	548	8	28
CLT 09'	651	226	390	13	22
RAL 08'	409	96	217	20	76
RAL 09'	484	181	258	28	17
GRB 09'	24	5	16	0	3
<b>TOTAL:</b>	<b>2,275</b>	<b>631</b>	<b>1,429</b>	<b>69</b>	<b>146</b>

<b>FY 2008</b>	1116	219	765	28	104
<b>FY 2009</b>	1159	412	664	41	42

<b>Fugitive Operations (North Carolina) FY09'</b>	

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North Carolina Violent Criminal Alien Section:

<b>VCAS</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>Total</b>
Reviewed	N/A	86	86
Not Amenable	N/A	18	18
County Custody	N/A	7	7
Presented	N/A	68	68
Accepted	N/A	62	62

**Violent Criminal Alien (VCAS)**

-  
North Carolina Criminal Alien Program:

<b>CAP</b>	<b>NC 08'</b>	<b>NC 09'</b>	<b>Total</b>	<b>Calendar 2009</b>
Screening	7,424	4,464	11,888	4,464

Detainers	2,099	985	3,084	985
Chg. Doc	2,099	985	3,084	985

-  
North Carolina 287g Programs:

287g 08'	Wake	Mecklenburg	Alamance	Gastonia	Hendersonville	Cabarrus	York	Cumberland
Interviewed	1,634	3,433	606	382	260	361	585	*
Processed	1,152	2,251	450	332	208	299	450	*

North

Calendar 2008	1152	2251	450	332	208	299	450	*
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\* Unable to obtain information for 2008

287g 09'	Wake	Mecklenburg	Alamance	Gastonia	Hendersonville	Cabarrus	York	Cumberland
Interviewed	1,653	2,296	322	199	228	203	330	329
Processed	1,179	1,586	243	185	175	155	222	63

Calendar 2009	1,179	1,586	243	185	175	155	222	63
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Carolina Secure Communities:

Outcome Metrics by State (From October 27, 2008 through June 30, 2009)									
	AZ	CA	FL	MA	NC	NM	PA	TX	VA
IDENT Matches	14,517	1,797	16,704	929	6,946	11	2,779	11,228	1,147
<b>Enforcement Actions</b>									
Detainers Issued after Interoperability Hit*	3,799	447	1,107	137	750	3	136	4,090	158
<b>Outcomes</b>									
Removals	2,478	275	554	43	439	0	67	3,170	13
In Proceedings	2,326	262	1,800	180	415	1	132	1,405	182
Other Outcomes	84	11	63	2	40	0	7	27	7
Proceedings Terminated	10	0	8	0	0	0	1	2	2
Relief Granted	1	0	4	1	0	0	0	2	1
Charging Document Canceled	72	11	51	1	40	0	6	23	4
Legalization - Permanent Residence Granted	1	0	0	0	0	0	0	0	0
Awaiting Outcomes**	6,441	952	13,175	594	5,942	10	2,409	6,169	745

Level 1 Outcome Metrics by State (From October 27, 2008 through June 30, 2009)									
	AZ	CA	FL	MA	NC	NM	PA	TX	VA
Level 1s	1,657	224	1,610	92	172	0	53	1,165	105
<b>Enforcement Actions</b>									
Detainers Issued after Interoperability Hit*	865	64	199	33	68	0	18	631	30
<b>Outcomes</b>									
Removals	211	31	58	3	17	0	5	267	2
In Proceedings	732	65	724	47	64	0	26	239	31
Other Outcomes	15	1	14	2	2	0	3	2	1
Proceedings Terminated	1	0	4	0	0	0	1	1	0
Relief Granted	1	0	3	1	0	0	0	0	0
Charging Document Canceled	13	1	7	1	2	0	2	1	1
Awaiting Outcomes**	692	123	812	40	89	0	19	648	71

These are the most current numbers available for Secure Communities at this time.

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(b)(6), (b)(7)c

Deputy Field Office Director  
Immigration and Customs Enforcement  
Detention and Removal Operations  
Atlanta Field Office (GA, NC, SC)  
404-887-8100 (b)(6), (b)(7)c

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**From:** (b)(6), (b)(7)c  
**Sent:** Monday, January 11, 2010 6:11 PM  
**To:** (b)(6), (b)(7)c  
**Cc:** (b)(6), (b)(7)c  
**Subject:** CAP/287g Ops in NC; briefing RE: NC

(b)(6), (b)(7)c keeps a briefing book. Do you want just a list of what programs we have up there, and where they are located? Or do you need stats and all?

If this is in reference to the ongoing complaints in the media about the effectiveness of our NC programs, we've written some stuff about the recurring meetings w/ have w/ our 287g partners, the steps we've gone to in order to ensure local prosecution whenever feasible, etc.

When do you need this?

(b)(6), (b)(7)c  
Deputy Field Office Director  
Immigration and Customs Enforcement  
Detention and Removal Operations  
Atlanta Field Office (GA, NC, SC)  
404-887-8100 (b)(6), (b)(7)c

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**From:** (b)(6), (b)(7)c  
**Sent:** Monday, January 11, 2010 5:29 PM  
**To:** (b)(6), (b)(7)c  
**Subject:** NC

(b)(6), (b)(7)c

Do you have any thing on CAP operations in NC available to include 287g? I have been requested to produce a quick brief for the AD.

(b)(6), (b)(7)c  
*(A) Unit Chief*  
*CAP Operations*  
*Criminal Alien Division*  
*Detention and Removal Operations*  
202-732-8100 (b)(6), (b)(7)c



August 11, 2009

## DRO Atlanta – North Carolina Operational Area

Detention and Removal Operations currently has (b)(7)e employees located in five different areas of North Carolina, running seven different programs. Currently in North Carolina we have Fugitive Operations, 287g program, Criminal Alien Program (CAP), Secure Communities (SC), Violent Criminal Alien Section (VCAS), Non-detained Unit and The Detention Management Unit.

Fugitive Operations - North Carolina currently has (b)(7)e Fugitive Operations Teams located in (b)(7)e. These Teams work solely on those cases identified as fugitives. They attempt to locate, apprehend, process and remove those aliens who have failed to surrender for removal or comply with a removal order or have an unexecuted final order of removal.

287g Program – North Carolina currently has eight 287g Programs in place, seven in North Carolina and one in South Carolina. This program refers to authority under the Immigration & Nationality Act's Section 287(g), which allows for training/deputizing state and local officers to perform ICE related duties, primarily in a correctional institution setting. North Carolina's 287g programs are located at Wake, Mecklenburg, Gastonia, Cabarrus, Alamance, Henderson, Cumberland and York County.

Criminal Alien Program (CAP) – North Carolina currently has Officers/Agents that are assigned to screen inmates in federal, state and local prisons and jails. The Officer/Agent interviews, place detainees and process Criminal Aliens for removal before they are released to the general public. North Carolina currently has (b)(7)e CAP teams, (b)(7)e in Charlotte, (b)(7)e in Raleigh and (b)(7)e in Hendersonville (b)(7)e (b)(7)e (b)(7)e

Secure Communities (SC) – North Carolina currently has twelve Secure Community Counties with nine more scheduled to come online in phase II of this Program. The Secure Communities Program identifies criminal aliens through modernized information sharing using Biometric (fingerprints) Identification. The current counties participating in North Carolina are Hendersonville, Buncombe, Gastonia, Cabarrus, Catawba, Wake, Cumberland, New Hanover, Orange, Duplin, Durham and Harnett. The nine counties scheduled to come online during phase II are Mecklenburg, Halifax, Dare, Lee, Columbus, Brunswick, Jackson, Union and Transylvania.

Violent Criminal Alien Section (VCAS) – North Carolina has Officers/Agents assigned to this unit, responsible for targeting federal violations within its statutory and regulatory authority,

primarily focusing on, but not limited to, violations of 8 USC 1326, Re-entry after Deportation committed by those aliens encountered through the Criminal Alien Program, Fugitive Operations and the 287g Program. These cases are presented to the United States Attorney's Office (USAO) for prosecution.

Non-Detained Unit – The Charlotte Sub-Office (CLT) Non-Detained Unit (NDU) is responsible for conducting legal research to support decisions on deportation/exclusion cases and assist attorneys in representing the Government in court actions. Additionally, it is responsible for working with other Federal law enforcement officials to identify, locate and/or apprehend aliens; prepare, present and defend deportation or exclusion proceedings; and ensure the physical removal of aliens from the United States. This involves working with both criminal and/or non-criminal aliens in the United States at various stages of their deportation/exclusion proceedings. Furthermore, CLT NDU is responsible for conducting complex investigations; conducting surveillance work; preparing investigative reports; and assisting in complex, difficult, or sensitive seizures. Moreover, the CLT NDU is responsible for alternatives to detention programs and bonds. The area of responsibility for the CLT NDU is the entire state of North Carolina. Currently, the CLT NDU staff consists of (b)(7) Supervisory Detention & Deportation Officer, (b)(7) Deportation Officers, and (b)(7) Detention Removal Assistant.

The CLT NDU is also responsible for all Alternatives to Detention (ATD) for the state of North Carolina. NDU is tasked with providing alternatives to secure detention while also providing a cost effective alternative to secure detention that improves rates of appearance at interviews, hearings, and compliance with immigration judges' final orders. This is accomplished with supervision technologies that include, but are not limited to, non-removable bracelets using radio frequency (RF) or GPS (active and passive) that operate either over landline or cellular technology, and multi-lingual telephonic reporting.

Detention Management Unit - The Charlotte Sub-Office (CLT) Detention Management Unit (DMU) is responsible for all Detention Management for the state of North Carolina. The CLT detention system consists of 2 local facilities, Alamance County Jail and the Mecklenburg County Jail, operating under intergovernmental service agreements which are funded through ICE reimbursement. The average length of stay for detainees placed in either facility is 7 days. On arrival at either facility, CLT DMU reviews cases, ensures appropriate book-in procedures are adhered to, reviews files for legal sufficiency, reviews appropriate processing procedures, schedules transfers and is also responsible for Detention Standards Compliance.

CLT DMU assists DIHS in providing assistance with patient care at both facilities. CLT DMU also assist DIHS in overseeing managed care services to ICE detainees housed at jails, local state agencies, and other IGSA detention facilities in North Carolina. Finally, CLT DMU assists DIHS with medical escorts, facility health assessments and reviews.

Successes:

1. North Carolina ICE/DRO has a great working relationship with the North Carolina Sheriff's Association (NCSA). We attend their quarterly Executive Steering Committee Meetings to

answer questions and to get feedback in regards to our current programs. This partnership has allowed our 287g and Secure Communities programs to succeed at a greater rate than most other states.

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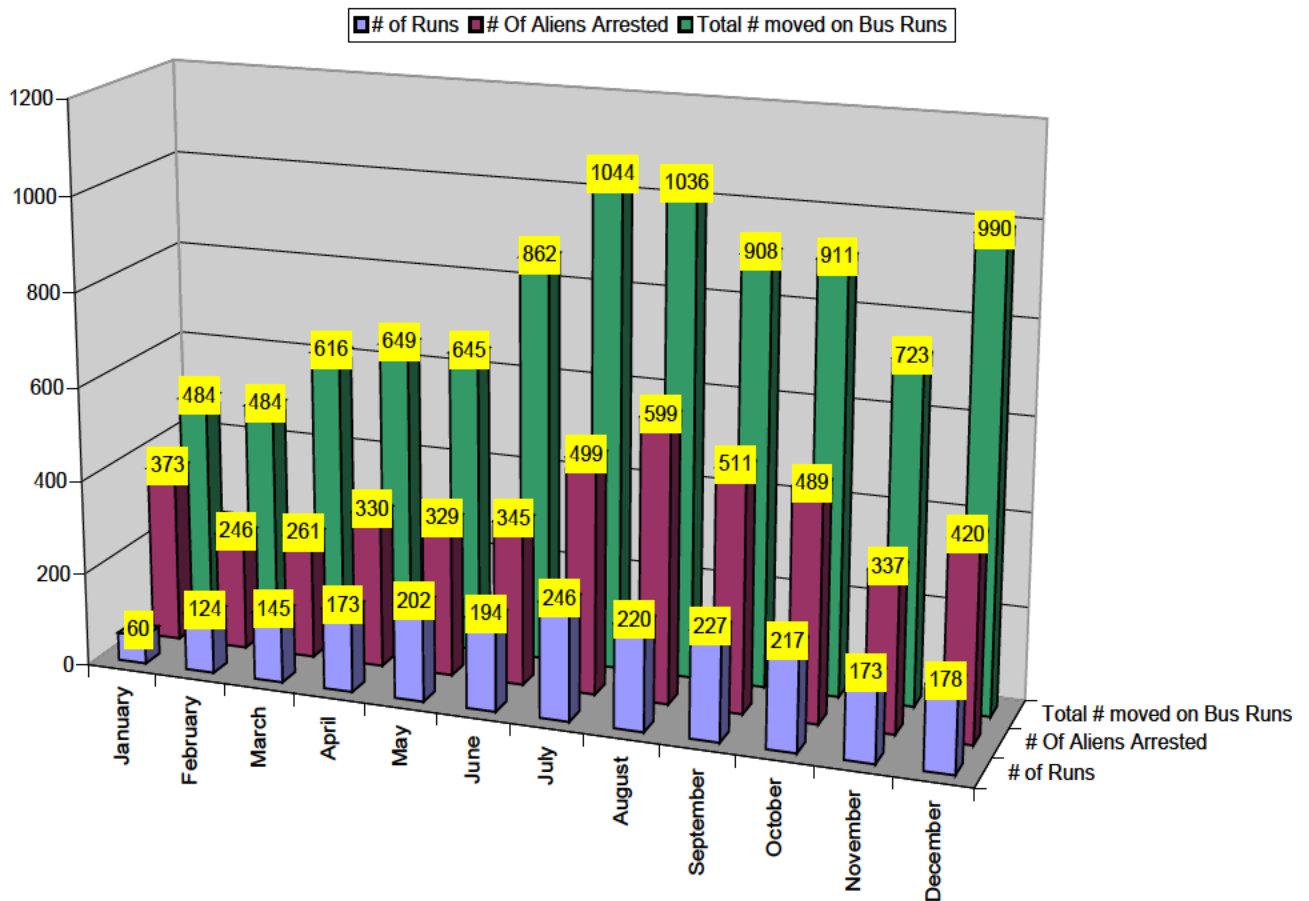
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DRO Atlanta – North Carolina Operational Area  
Page 4

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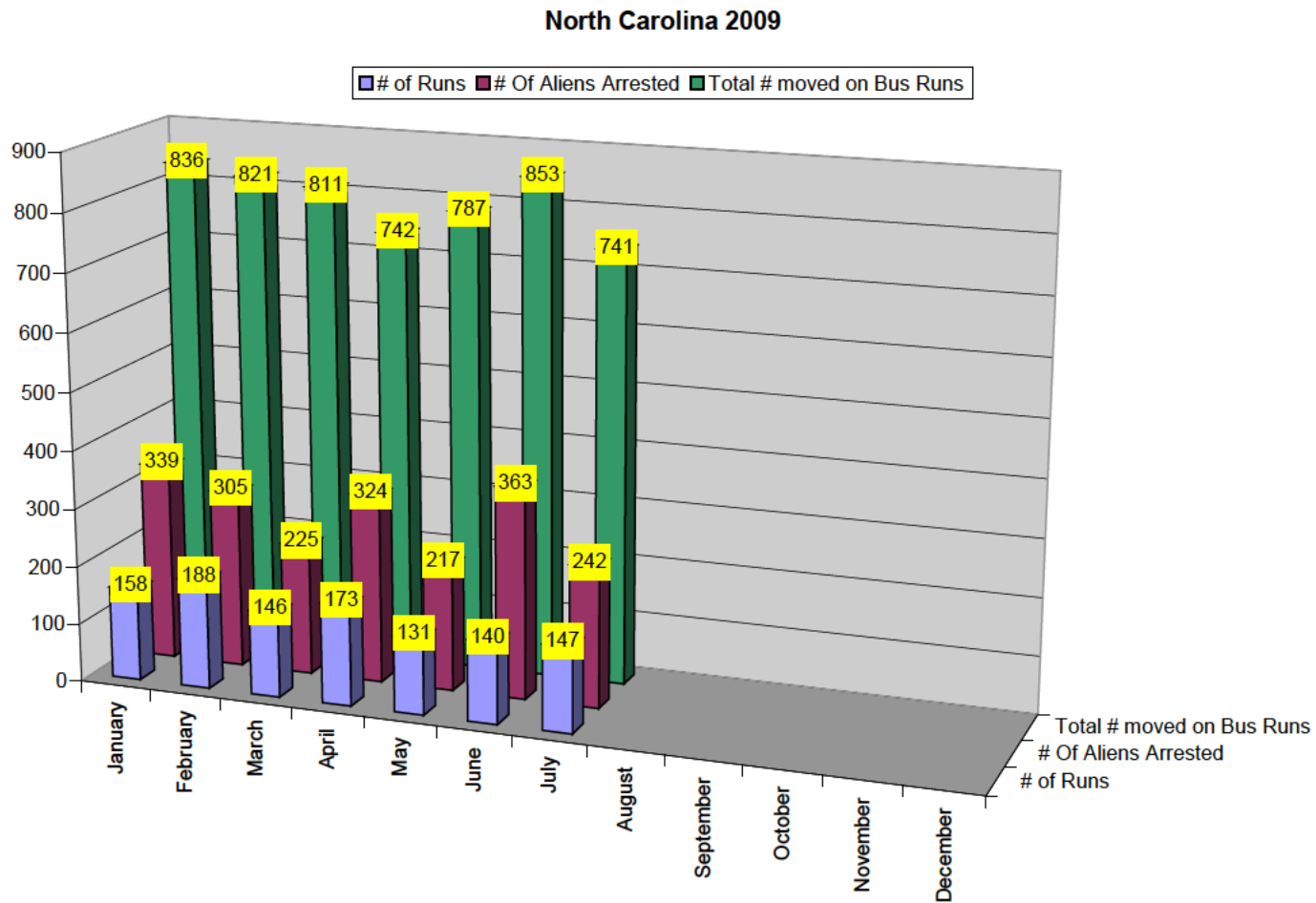
**North Carolina 2008**



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DRO Atlanta – North Carolina Operational Area  
Page 5

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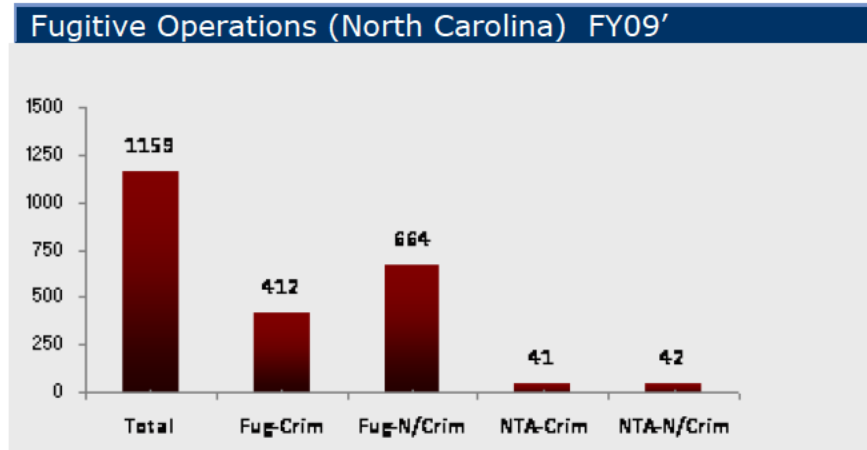
DRO Atlanta – North Carolina Operational Area  
Page 7

Reports for Each Program

North Carolina Fugitive Operations:

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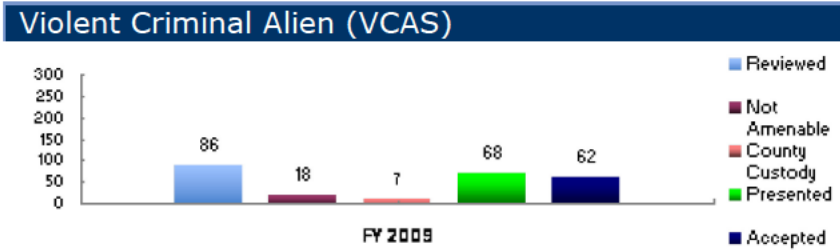


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DRO Atlanta – North Carolina Operational Area  
Page 8

North Carolina Violent Criminal Alien Section:

<b>VCAS</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>Total</b>
Reviewed	N/A	86	86
Not Amenable	N/A	18	18
County Custody	N/A	7	7
Presented	N/A	68	68
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\* Unable to obtain information for 2008

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<b>Calendar 2009</b>	<b>1,179</b>	<b>1,586</b>	<b>243</b>	<b>185</b>	<b>175</b>	<b>155</b>	<b>222</b>	<b>63</b>
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DRO Atlanta – North Carolina Operational Area

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North Carolina Secure Communities:

<b>Outcome Metrics by State</b>									
<b>(From October 27, 2008 through June 30, 2009)</b>									
	<b>AZ</b>	<b>CA</b>	<b>FL</b>	<b>MA</b>	<b>NC</b>	<b>NM</b>	<b>PA</b>	<b>TX</b>	<b>VA</b>
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<b>Removals</b>	<b>2,478</b>	<b>275</b>	<b>554</b>	<b>43</b>	<b>439</b>	<b>0</b>	<b>67</b>	<b>3,170</b>	<b>13</b>
<b>In Proceedings</b>	<b>2,326</b>	<b>262</b>	<b>1,800</b>	<b>180</b>	<b>415</b>	<b>1</b>	<b>132</b>	<b>1,405</b>	<b>182</b>
<b>Other Outcomes</b>	<b>84</b>	<b>11</b>	<b>63</b>	<b>2</b>	<b>40</b>	<b>0</b>	<b>7</b>	<b>27</b>	<b>7</b>
Proceedings Terminated	10	0	8	0	0	0	1	2	2
Relief Granted	1	0	4	1	0	0	0	2	1
Charging Document Canceled	72	11	51	1	40	0	6	23	4
Legalization - Permanent Residence Granted	1	0	0	0	0	0	0	0	0
<b>Awaiting Outcomes**</b>	<b>6,441</b>	<b>952</b>	<b>13,175</b>	<b>594</b>	<b>5,942</b>	<b>10</b>	<b>2,409</b>	<b>6,169</b>	<b>745</b>

<b>Level 1 Outcome Metrics by State</b>									
<b>(From October 27, 2008 through June 30, 2009)</b>									
	<b>AZ</b>	<b>CA</b>	<b>FL</b>	<b>MA</b>	<b>NC</b>	<b>NM</b>	<b>PA</b>	<b>TX</b>	<b>VA</b>
Level 1s	1,657	224	1,610	92	172	0	53	1,165	105
<b>Enforcement Actions</b>									
Detainers Issued after Interoperability Hit*	865	64	199	33	68	0	18	631	30
<b>Outcomes</b>									
<b>Removals</b>	<b>211</b>	<b>31</b>	<b>58</b>	<b>3</b>	<b>17</b>	<b>0</b>	<b>5</b>	<b>267</b>	<b>2</b>
<b>In Proceedings</b>	<b>732</b>	<b>65</b>	<b>724</b>	<b>47</b>	<b>64</b>	<b>0</b>	<b>26</b>	<b>239</b>	<b>31</b>
<b>Other Outcomes</b>	<b>15</b>	<b>1</b>	<b>14</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>3</b>	<b>2</b>	<b>1</b>
Proceedings Terminated	1	0	4	0	0	0	1	1	0
Relief Granted	1	0	3	1	0	0	0	0	0
Charging Document Canceled	13	1	7	1	2	0	2	1	1
<b>Awaiting Outcomes**</b>	<b>692</b>	<b>123</b>	<b>812</b>	<b>40</b>	<b>89</b>	<b>0</b>	<b>19</b>	<b>648</b>	<b>71</b>

These are the most current numbers available for Secure Communities at this time.

**From:** (b)(6), (b)(7)c  
**To:**  
**Subject:** FW: FW: Director's Goals (CAP Surges)  
**Date:** Friday, March 19, 2010 2:09:02 PM  
**Attachments:** [FO surge information form - FAT.xls](#)  
[HQ Op Plan - Rockdale CAP Surge.doc](#)  
[HQ Op Plan - DeKalb CAP Surge.doc](#)  
[HQ Op Plan - Forsyth CAP Surge.doc](#)  
[HQ Op Plan - Guilford CAP Surge.doc](#)  
[HQ Op Plan - Horry CAP Surge.doc](#)  
[HQ Op Plan template3-8-10.doc](#)  
[FO surge information form.xls](#)

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Here is what was sent up.

Thank you.

(b)(6), (b)(7)c  
AFOD  
Atlanta Field Office  
Ofc.: (404) 893 (b)(6), (b)(7)c  
Fax.: (404) 893 (b)(6), (b)(7)c  
(b)(6), (b)(7)c @dhs.gov

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**From:** (b)(6), (b)(7)c  
**Sent:** Friday, March 19, 2010 2:06 PM  
**To:** CAP HQ  
**Cc:** (b)(6), (b)(7)c  
**Subject:** FW: FW: Director's Goals (CAP Surges)

Please see the attached CAP op plans for the Atlanta Field Office.  
Thanks

*Felicia S. Skinner*

Field Office Director  
Department of Homeland Security  
Immigration and Customs Enforcement/DRO  
Georgia-North Carolina-South Carolina  
404-893 (b)(6), (b)(7)c

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**From:** (b)(6), (b)(7)c  
**Sent:** Thursday, March 18, 2010 5:31 PM  
**To:**  
**Cc:** (b)(6), (b)(7)c  
**Subject:** FW: Director's Goals (CAP Surges)

Here are the 5 proposed Op Plans.

I have included the original HQ CAP templates as an FYI.

Thank you.

(b)(6), (b)(7)c  
AFOD  
Atlanta Field Office

Ofc.: (404) 893- (b)(6), (b)(7)c  
Fax: (404) 893- (b)(6), (b)(7)c  
(b)(6), (b)(7)c @dhs.gov

---

**From:** DRO Taskings  
**Sent:** Tuesday, March 09, 2010 6:24 PM  
**Subject:** Director's Goals (CAP Surges)

*The following message is sent on behalf of Thomas Homan, Assistant Director for Enforcement; and approved by Marc J. Moore, Assistant Director Field Operations:*

**To: Field Office Directors and Deputy Field Office Directors:**

**Subject: CAP Removal Surges**

The Criminal Alien Program (CAP) has the primary responsibility in ICE to effectively identify and remove aliens found within Federal, state, and local jail and prison facilities, regardless of the status of conviction. On February 22, 2010, Director Chaparro sent a message directing each Field Office Director to plan and implement CAP removal surges through the remainder of the fiscal year. CAP Removal Surge Operations are conducted to ensure 100% of all individuals booked into targeted facilities that are amenable to immediate removal obtain a removal order, or are voluntarily returned to their country of citizenship once released from local law enforcement custody or otherwise are placed into removal proceedings.

In addition to identifying removable aliens, the ultimate goal of this initiative is to increase the number of criminal and non-criminal alien removals during the remainder of the fiscal year. With this in mind, every FOD is directed to plan operations within their AOR targeting removable aliens that may be released from a law enforcement agency and/or facility. Your planning should focus on operations at jail facilities targeting aliens at intake that are quickly booked and released, focusing on those facilities with limited CAP coverage.

Attached to this message is a "CAP Removal Surge" location information form and an operational plan template which should be completed and submitted to HQ for review and approval. Please submit your forms and plans to the (b)(6), (b)(7)c mailbox NLT COB Friday, March 19, 2010. The FOD's in San Diego, Phoenix, El Paso, San Antonio and Houston are asked to plan operations no earlier than the beginning of April.

HQ CAP will ensure coordination with the field offices and headquarters, as well as provide guidance for reporting requirements once the operational plans are consolidated and reviewed.

If there are any questions please contact Acting CAP Operations Unit Chief (b)(6), (b)(7)c (b)(6), (b)(7)c via email or at (202) 732- (b)(6), (b)(7)c

**Warning: This document is UNCLASSIFIED//FOR OFFICIAL USE ONLY (U//FOUO). It contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information and is not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval of an authorized DHS official. No portion of this report should be furnished to the media, either in written or verbal form.**



**Atlanta Field Office**

**CAP SURGE**  
**Operational Plan**

***LIMITED OFFICIAL USE***

**HEADQUARTERS  
CRIMINAL ALIEN PROGRAM OPERATIONS UNIT**

**CRIMINAL ALIEN PROGRAM  
Atlanta FIELD OFFICE**

**CAP SURGE Operation  
July 23 -26, 2010**

**I. Situation**

CAP Surge Operations (Surge) will ensure 100% of all inmates booked into and released from targeted facilities are screened for alienage and removability for the duration of the operation. Those who are determined to have no status or to have violated their status or those found to be removable from the United States will immediately be processed and placed into appropriate immigration proceedings.

Surge Operations will be conducted within the Atlanta Field Office Area of Operational Responsibility (AOR). The Field Office Director (FOD) and Assistant Field Office Director (AFOD) have all been briefed on this operational plan; and they each support its execution upon approval from HQDRO.

**A) Targeted Facilities**

- Rockdale County Detention Center - It is estimated that 75 to 120 criminal aliens, not previously identified will be processed for removal from the United States.

**B) Hours of Operation**

During the Surge, all individuals booked into and released from the facility will be screened for alienage and removability. The current incarcerated population in the facility will be screened as manpower and time permit.

DRO Staff will be on site as follows:

**Team/Shift One**

- (b)(7)e Operational Hours
  - Supervisory Detention & Deportation Officers
  - (b)(7)e Deportation Officers
  - Immigration Enforcement Agents
  - Other Support (ie. JPATS)  
(list)
- 
- 

**Team/Shift Two**

- (b)(7)e Operational Hours
  - Supervisory Detention & Deportation Officers
  - (b)(7)e Immigration Enforcement Agents
  - Other Support (ie. JPATS)
  - (list)
- 
- 

**Team/Shift Three**

- (b)(7)e Operational Hours
  - Deportation Officer
  - (b)(7)e Immigration Enforcement Agents
  - Other Support (ie. JPATS)  
(list)
- 
- 

Additional coverage will be accomplished by the Atlanta Field Office 24/7 Duty desk.

**\*\*\* Supervisory staff will change shift hours as needed, in order to effectively facilitate the operation.**

### **C) Staffing**

The Surge will require additional support from outside the field office. The FOD has committed all necessary resources within his or her jurisdiction.

Requested detail staff positions:

\_ SDDO

\_\_\_DO

\_\_\_SIEA

\_\_\_IEA

\_\_\_DRA

### **D) Community Issues or Politically Sensitive Issues**

Three days prior to the execution of the Surge, the Field Office will provide the Office of Public Affairs (OPA) and Office of Congressional Relations (OCR) with the specifics of the operation, including the operational dates and location of the initiative. Due to social and political climates, this operation may result in a negative response from the communities in which it is conducted.

### **E) Prosecutions**

In instances where an alien is amenable to prosecution (e.g. re-entry, false claims), the case will be presented to the United States Attorneys Office (AUSA) for criminal prosecution. These presentations will be entered in TECS.

## **II. Mission**

The primary objective of the Criminal Alien Program (CAP) is to ensure that all criminal aliens serving criminal sentences are processed for removal prior to their release from Federal, State and local custody. This intention affirms the ultimate mission of

ICE/DRO, which is to effect the removal of criminal aliens upon being turned over to ICE custody. CAP strives to ensure that all incarcerated foreign-born nationals are screened; and where applicable, processed for removal from the United States. CAP Surge Operations are an enhanced part of this effort with a goal to ensure 100% of all inmates booked into and released from targeted facilities are screened for alienage and removability and when applicable, processed for removal from the United States.

## **Execution**

### **A) Director's Intent**

CAP's primary objective is to ensure that all criminal aliens serving criminal sentences are processed for removal prior to their release from Federal, State and local custody.

### **B) Concept of Operations**

The Field Office will implement Surge Operations to facilitate the screening of 100% of all persons booked into and released from targeted facilities and sustain this level of screening for the duration of the Surge Operation.

As efforts progress, field office resources may be reassigned to other geographical areas to meet operational needs; or returned to their official duty posts, as deemed appropriate by the SDDO. A liaison officer will be responsible for establishing and coordinating operations with correction officials at target facilities where Surge Operations will be conducted.

DRO enforcement personnel will identify themselves as ICE Officers or Agents to all persons questioned. ICE Officers/Agents will only wear official ICE uniforms and indentifying equipment. In addition, all personnel will follow ICE policy to carry ICE credentials to prove the authorization that enables them to perform the various functions involved in the Surge Operation.

This operation will consist of 4 days of surge activities being executed at the Rockdale County Jail, Atlanta AOR from July 23, 2010 through July 26, 2010.

Phase I: July 22, 2010: Operational briefing at 1500 hours at the Atlanta Field Office. All officers participating in the operation will attend this pre-operational briefing.

Phase II: July 23, 2010: Officers from the Atlanta Field Office will deploy to the Rockdale County Jail to initiate screening.

Phase III: July 27, 2010: If deemed necessary, the Atlanta Field Office Public Affairs Office will issue a press release following the completion of the operation, once approved by the FOD.

### **C) Tasks**

1. The Point of Contact (POC) for communications with HQCAP Operations Unit is SDDO (b)(6), (b)(7)(C). Their cell phone number is 404-925-(b)(6), (b)(7)c and their desk number is 404-893-(b)(6), (b)(7). They will report to HQCAP Operations each Friday by Noon EST, using the CAP Surge Tracking spreadsheet with updated statistics.
2. Fugitive Operations Support Center (FOSC): A copy of the Operational Plan and current inmate roster will be sent three days prior to commencement to the FOSC.
3. The Law Enforcement Support Center (LESC) is available 24 hours a day, seven days a week and can provide support for the Surge. On July 19, 2010 Section Chief (b)(6), (b)(7)c at (802) 872-(b)(6), (b)(7)c was notified of the dates and times of the operation. Officers/agents participating in the operation should have the contact number for the LESL and a PIN number.
4. Detention Operations Coordination Center (DOCC): Detention space is limited within the Atlanta AOR, and detention locations have been identified. Although DOCC assistance was not requested they have been provided a copy of this operational plan and have concurred with the operation.

### **D) Safety and Logistics**

1. Mandatory Element: **Safety is paramount.** All personnel participating in the operation will be aware of local facility emergency procedures; and a team leader will be assigned to ensure that these procedures are followed.
2. Primary processing location: Aliens encountered from the designated facility that require immediate transfer to ICE will be transported to the Atlanta Field Office for processing. All transportation will be conducted per DRO policy.
  - a. Secondary detention and processing site(s) to be determined as needed.
  - b. The SDDO will coordinate requests for additional staff to support Surge Operations. Requests will be made through the appropriate AFOD with concurrence from the Atlanta Field Office FOD.
3. Logistics.
  - a. Rockdale County Detention Center is approximately 22.2 miles from the Atlanta Field Office. This surge will be fully supported by the Atlanta Field Office. Overtime costs will be for weekend duty.
  - b. The Surge Operation will not require any Health & Safety inspections at any facility.
4. Removal Efforts: It is the intent of the FOD to process all removable aliens in an expeditious manner. The below actions will be performed to facilitate this objective:
  - a. Immediately upon determination of alienage and removability, an Immigration detainer, form I-247, will be logged using the ENFORCE system.
  - b. All arrests that require a Notice to Appear (NTA) will be presented with the option of a Stipulated Removal if applicable to the Field Office's AOR. The OPLA /Atlanta and EOIR /Atlanta have been advised and contacted as to the availability to approve stipulated removals during the Surge. All other Immigration proceedings will be utilized as applicable.

- c. DRO personnel will be instructed to secure and place any and all identity documents relating to each removable subject in the “A” file. Additionally, they will be instructed to ensure that photocopies are placed in the subjects’ “A” file. DRO personnel will make every legal effort to secure these documents.

## **E) General Reporting Requirements**

1. Weekly Reports: Submitted to the AFOD and HQCAP Operations Unit utilizing the “Surge Activity Report” spreadsheet.

Via/Transmission: E-mail (b)(6), (b)(7)c mailbox)

Due: 1200 EST each Friday

Period Covered: Friday through Thursday (0001-2400 hours)

2. Weekly Reports: Standard HQCAP reporting.
3. Significant Event Notification (SEN): A SEN/SIR will need to be submitted only if events or incidences occur that warrant their submission in accordance with established policy and procedures.
4. Report Format: At the conclusion of the Surge, the field office’s POC to the CAP Operations Unit, previously identified above, will ensure that HQCAP is properly supplied with the final statistical report for the Surge. This will be due by 1400 hours the day after completion of Surge Operations. .

## **F) After Action Reporting Requirements**

1. Initial after action conferences will be conducted as follows:
  - a. Key operational personnel involved in the final Phase(s) of the Surge will be held on July 27, 2010 at the Atlanta Field Office
2. Format: The format for issues will be:
  - a. Topic
  - b. Discussion



c. Recommendation(s)

3. Formal after action report: A memorandum of results will be generated and forwarded to the FOD for review.
4. Public Affairs will coordinate with the FOD and generate a press release upon completion of the operation.

**G) Command and Control**

1. Primary means of communication will be via radio as allowed by each facility, as well as telephone and e-mail.
2. All personnel will have identifiers created with SECTOR communications to facilitate record checks and status verifications.

AUTHORIZING OFFICIAL

---

Felicia S. Skinner  
Field Office Director  
Atlanta Field Office

APPROVING OFFICIAL

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Thomas Homan  
Assistant Director, Enforcement  
Office of Detention and Removal

DISTRIBUTION:

FOD  
DFOD  
Operations AFOD  
HQCAP

**Atlanta Field Office**

**CAP SURGE**  
**Operational Plan**

***LIMITED OFFICIAL USE***

**HEADQUARTERS  
CRIMINAL ALIEN PROGRAM OPERATIONS UNIT**

**CRIMINAL ALIEN PROGRAM  
Atlanta FIELD OFFICE**

**CAP SURGE Operation  
June 16-30, 2010**

**I. Situation**

CAP Surge Operations (Surge) will ensure 100% of all inmates booked into and released from targeted facilities are screened for alienage and removability for the duration of the operation. Those who are determined to have no status or to have violated their status or those found to be removable from the United States will immediately be processed and placed into appropriate immigration proceedings.

Surge Operations will be conducted within the Atlanta Field Office Area of Operational Responsibility (AOR). The Field Office Director (FOD) and Assistant Field Office Director (AFOD) have all been briefed on this operational plan; and they each support its execution upon approval from HQDRO.

**A) Targeted Facilities**

- DeKalb County- It is estimated that 300 to 500 criminal aliens, not previously identified will be processed for removal from the United States.

**B) Hours of Operation**

During the Surge, all individuals booked into and released from the facility will be screened for alienage and removability. The current incarcerated population in the facility will be screened as manpower and time permit.

DRO Staff will be on site as follows:

**Team/Shift One**

- (b)(7)e Operational Hours
  - Supervisory Detention & Deportation Officers
  - Deportation Officers
  - (b)(7)e Immigration Enforcement Agents
  - Deportation Removal Assistant
  - Other Support (ie. JPATS)  
(list)
- 
- 

**Team/Shift Two**

- (b)(7)e -Operational Hours
  - Supervisory Detention & Deportation Officers
  - (b)(7)e Deportation Officers
  - Immigration Enforcement Agents
  - Other Support (ie. JPATS)
  - (list)
- 
- 

**Team/Shift Three**

- (b)(7)e Operational Hours
  - Supervisory Detention & Deportation Officers
  - (b)(7)e Immigration Enforcement Agents
  - Other Support (ie. JPATS)  
(list)
- 
- 

Additional coverage will be accomplished by the Atlanta Field Office 24/7 Duty desk.

**\*\*\* Supervisory staff will change shift hours as needed, in order to effectively facilitate the operation.**

**C) Staffing**

The Surge will require additional support from outside the field office. The FOD has committed all necessary resources within his or her jurisdiction.

Requested detail staff positions:

(b)(7)e	SDDO
	O
	IEA
	IEA
	DRA

**D) Community Issues or Politically Sensitive Issues**

Three days prior to the execution of the Surge, the Field Office will provide the Office of Public Affairs (OPA) and Office of Congressional Relations (OCR) with the specifics of the operation, including the operational dates and location of the initiative. Due to social and political climates, this operation may result in a negative response from the communities in which it is conducted.

**E) Prosecutions**

In instances where an alien is amenable to prosecution (e.g. re-entry, false claims), the case will be presented to the United States Attorneys Office (AUSA) for criminal prosecution. These presentations will be entered in TECS.

**II. Mission**

The primary objective of the Criminal Alien Program (CAP) is to ensure that all criminal aliens serving criminal sentences are processed for removal prior to their release from Federal, State and local custody. This intention affirms the ultimate mission of ICE/DRO, which is to effect the removal of criminal aliens upon being turned over to ICE custody. CAP strives to ensure that all incarcerated foreign-born nationals are screened; and where applicable, processed for removal from the United States. CAP Surge Operations are an enhanced part of this effort with a goal to ensure 100% of all inmates booked into and released from targeted facilities are screened for alienage and removability and when applicable, processed for removal from the United States.

### **Execution**

#### **A) Director's Intent**

CAP's primary objective is to ensure that all criminal aliens serving criminal sentences are processed for removal prior to their release from Federal, State and local custody.

#### **B) Concept of Operations**

The Field Office will implement Surge Operations to facilitate the screening of 100% of all persons booked into and released from targeted facilities and sustain this level of screening for the duration of the Surge Operation.

As efforts progress, field office resources may be reassigned to other geographical areas to meet operational needs; or returned to their official duty posts, as deemed appropriate by the SDDO. A liaison officer will be responsible for establishing and coordinating operations with correction officials at target facilities where Surge Operations will be conducted.

DRO enforcement personnel will identify themselves as ICE Officers or Agents to all persons questioned. ICE Officers/Agents will only wear official ICE uniforms and indentifying equipment. In addition, all personnel will follow ICE policy to carry ICE credentials to prove the authorization that enables them to perform the various functions involved in the Surge Operation.

This operation will consist of fourteen (14) days of surge activities being executed at the DeKalb County Detention Center AOR from June 16, 2010 through June 30, 2010.

Phase I: June 15, 2010: Operational briefing at 1500 hours at the Atlanta Field Office. All officers participating in the operation will attend this pre-operational briefing.

Phase II: June 16, 2010: Officers from the Atlanta Field Office will deploy to the DeKalb County Jail to initiate screening.

Phase III: July 1, 2010: If deemed necessary, the Atlanta Field Office Public Affairs Office will issue a press release following the completion of the operation, once approved by the FOD.

### C) Tasks

1. The Point of Contact (POC) for communications with HQCAP Operations Unit is SDDO (b)(6), (b)(7)c. Their cell phone number is 404-925 (b)(6), (b)(7)c and their desk number is 404-893 (b)(6), (b)(7)c. They will report to HQCAP Operations each Friday by Noon EST, using the CAP Surge Tracking spreadsheet with updated statistics.
2. Fugitive Operations Support Center (FOSC): A copy of the Operational Plan and current inmate roster will be sent three days prior to commencement to the FOSC.
3. The Law Enforcement Support Center (LESC) is available 24 hours a day, seven days a week and can provide support for the Surge. On June 9, 2010, Section Chief (b)(6), (b)(7)c (802) 872 (b)(6), (b)(7)c will be notified of the dates and times of the operation. Officers/agents participating in the operation should have the contact number for the LESL and a PIN number.
4. Detention Operations Coordination Center (DOCC): Detention space is limited within the Atlanta AOR, and detention locations have been identified. Although DOCC assistance was not requested they have been provided a copy of this operational plan and have concurred with the operation.



## D) Safety and Logistics

1. Mandatory Element: **Safety is paramount.** All personnel participating in the operation will be aware of local facility emergency procedures; and a team leader will be assigned to ensure that these procedures are followed.
2. Primary processing location: Aliens encountered from the designated facility that require immediate transfer to ICE will be transported to the Atlanta Field Office for processing. All transportation will be conducted per DRO policy.
  - a. Secondary detention and processing site(s) to be determined as needed.
  - b. The SDDO will coordinate requests for additional staff to support Surge Operations. Requests will be made through the appropriate AFOD with concurrence from the Atlanta Field Office FOD.
3. Logistics.
  - a. Lodging and per diem expenses will be required for the Surge Operation. The following is a breakdown of possible costs:
    1. Detailers = (b)(7)e
      1. Airfare (b)(7)e Detailers = \$8,500
      2. Rental Vehicle (b)(7)e vehicles @ (b)(7)e for full size = \$2,750
      3. Lodging at (b)(7)e per day x (b)(7)e detailers = \$35,700
      4. M&IE at (b)(7)e per day x (b)(7)e detailers = \$14,280
      5. Supply costs for paper, toner, pens and other operational material = \$1,000
      6. Miscellaneous costs including fuel for vehicles and taxes = \$2,000
    2. Estimated total cost of Operation is = \$61,480
  - b. The Surge Operation will not require any Health & Safety inspections at any facility.

4. Removal Efforts: It is the intent of the FOD to process all removable aliens in an expeditious manner. The below actions will be performed to facilitate this objective:
  - a. Immediately upon determination of alienage and removability, an Immigration detainer, form I-247, will be logged using the ENFORCE system.
  - b. All arrests that require a Notice to Appear (NTA) will be presented with the option of a Stipulated Removal if applicable to the Field Office's AOR. The OPLA /Atlanta and EOIR /Atlanta have been advised and contacted as to the availability to approve stipulated removals during the Surge. All other Immigration proceedings will be utilized as applicable.
  - c. DRO personnel will be instructed to secure and place any and all identity documents relating to each removable subject in the "A" file. Additionally, they will be instructed to ensure that photocopies are placed in the subjects' "A" file. DRO personnel will make every legal effort to secure these documents.

#### **E) General Reporting Requirements**

1. Weekly Reports: Submitted to the AFOD and HQCAP Operations Unit utilizing the "Surge Activity Report" spreadsheet.

Via/Transmission: E-mail (b)(6), (b)(7)c mailbox)

Due: 1200 EST each Friday

Period Covered: Friday through Thursday (0001-2400 hours)

2. Weekly Reports: Standard HQCAP reporting.
3. Significant Event Notification (SEN): A SEN/SIR will need to be submitted only if events or incidences occur that warrant their submission in accordance with established policy and procedures.
4. Report Format: At the conclusion of the Surge, the field office's POC to the CAP Operations Unit, previously identified above, will ensure that

HQCAP is properly supplied with the final statistical report for the Surge. This will be due by 1400 hours the day after completion of Surge Operations. .

**F) After Action Reporting Requirements**

1. Initial after action conferences will be conducted as follows:
  - a. Key operational personnel involved in the final Phase(s) of the Surge will be held on July 1, 2010 at the Atlanta Field Office
2. Format: The format for issues will be:
  - a. Topic
  - b. Discussion
  - c. Recommendation(s)
3. Formal after action report: A memorandum of results will be generated and forwarded to the FOD for review.
4. Public Affairs will coordinate with the FOD and generate a press release upon completion of the operation.

**G) Command and Control**

1. Primary means of communication will be via radio as allowed by each facility, as well as telephone and e-mail.
2. All personnel will have identifiers created with SECTOR communications to facilitate record checks and status verifications.

AUTHORIZING OFFICIAL

---

Felicia S. Skinner  
Field Office Director  
Atlanta Field Office

APPROVING OFFICIAL

---

Thomas Homan  
Assistant Director, Enforcement  
Office of Detention and Removal

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**CRIMINAL ALIEN PROGRAM  
Atlanta FIELD OFFICE**

**CAP REMOVAL SURGE Operation  
Dates: April 12, 2010 – April 13, 2010**

**I. Situation**

CAP Removal Surge Operations are conducted to ensure 100% of all individuals booked into targeted facilities that are amenable to immediate removal obtain a removal order, or are voluntarily returned to their country of citizenship once released from local law enforcement custody or otherwise are placed into removal proceedings.

Surge Operations will be conducted within the Atlanta Field Office Area of Operational Responsibility (AOR). The Field Office Director (FOD), Deputy Field Office Director (DFOD), and Assistant Field Office Director (AFOD) have all been briefed on this operational plan; and they each support its execution upon approval from HQDRO.

**A) Targeted Facilities**

- Forsyth County Detention Center- It is estimated that 110 criminal aliens, are currently immediately removable and 30 not previously identified that will be processed for immediate removal from the United States.

**B) Hours of Operation**

During the Surge, all individuals booked into and released from the facility will be screened for alienage and removability. The current incarcerated population in the facility will be screened as manpower and time permit.

DRO Staff will be on site as follows:

## Team

- (b)(7)e Operational Hours
- Supervisory Detention & Deportation Officers
- (b)(7)e Deportation Officers
- Immigration Enforcement Agents

Coverage outside of these hours will be accomplished by N/A.

**\*\*\* Supervisory staff will change shift hours as needed, in order to effectively facilitate the operation.**

### **C) Staffing**

The Surge will not require additional support from outside the field office. The FOD has committed all necessary resources within his or her jurisdiction.

Requested detail staff positions:

\_\_\_SDDO

\_\_\_DO

\_\_\_SIEA

\_\_\_IEA

\_\_\_DRA

### **D) Community Issues or Politically Sensitive Issues**

Three days prior to the execution of the Surge, the Field Office will provide the Office of Public Affairs (OPA) and Office of Congressional Relations (OCR) with the specifics of the operation, including the operational dates and location of the initiative. Due to social and political climates, this operation may result in a negative response from the communities in which it is conducted.

### **E) Prosecutions**

In instances where an alien is amenable to prosecution (e.g. re-entry, false claims), the case will be presented to the United States Attorneys Office (AUSA) for criminal prosecution. These presentations will be noted in TECS.

## **II. Mission**

The primary objective of the Criminal Alien Program (CAP) is to ensure that all criminal aliens serving criminal sentences are processed for removal prior to their release from Federal, State and local custody. This intention affirms the ultimate mission of ICE/DRO, which is to effect the removal of criminal aliens upon being turned over to ICE custody. CAP strives to ensure that all incarcerated foreign-born nationals are screened; and where applicable, processed for removal from the United States. CAP Surge Operations are an enhanced part of this effort with a goal to ensure 100% of all inmates booked into and released from targeted facilities are screened for alienage and removability and when applicable, processed for removal from the United States.

### **Execution**

#### **A) Director's Intent**

CAP's primary objective is to ensure that all criminal aliens serving criminal sentences are processed for removal prior to their release from Federal, State and local custody.

#### **B) Concept of Operations**

The Field Office will implement CAP Removal Surge Operations are conducted are to ensure 100% of all individuals booked into targeted facilities that are amenable to immediate removal obtain a removal order, or are voluntarily returned to their country of citizenship once released from local law enforcement custody or otherwise are placed into removal proceedings.

As efforts progress, field office resources may be reassigned to other geographical areas to meet operational needs; or returned to their official duty posts, as deemed appropriate by the SDDO. A liaison officer will be responsible for establishing and coordinating operations with correction officials at target facilities where Surge Operations will be conducted.



DRO enforcement personnel will identify themselves as ICE Officers or Agents to all persons questioned. ICE Officers/Agents will only wear official ICE uniforms and indentifying equipment. In addition, all personnel will follow ICE policy to carry ICE credentials to prove the authorization that enables them to perform the various functions involved in the Surge Operation.

This operation will consist of 2 days of surge activities being executed at the Forsyth County Detention Center AOR from April 12th, 2010 through April 13th, 2010.

Phase I: April 9, 2010: Operational briefing at 1300 hours at (b)(6), (b)(7)c (b)(6), (b)(7)c Charlotte, NC. All officers participating in the operation will attend this pre-operational briefing.

Phase II: April 12th, 2010: Officers from the Atlanta Field Office will deploy to the Forsyth County Detention Center to initiate screening.

Phase III: April 14th, 2010: If deemed necessary, the Atlanta Public Affairs Office will issue a press release following the completion of the operation, once approved by the FOD.

### C) Tasks

1. The Point of Contact (POC) for communications with HQCAP Operations Unit is SDDO (b)(6), (b)(7)c Their cell phone number is 336-462 (b)(6), (b)(7)c and their desk number is 704-672 (b)(6), (b)(7)c They will report to HQCAP Operations each Friday by Noon EST, using the CAP Surge Tracking spreadsheet with updated statistics.
2. Fugitive Operations Support Center (FOSC): A copy of the Operational Plan and target list has been sent to the FOSC. Provide FOSC with inmate roster prior to commencement of the SURGE.
3. The Law Enforcement Support Center (LESC) is available 24 hours a day, seven days a week and can provide support for the Surge. On April 5<sup>th</sup>, 2010, Section Chief (b)(6), (b)(7)c (802) 872 (b)(6), (b)(7)c will be notified of the dates and times of the operation. Officers/agents participating in the operation should have the contact number for the LESL and a PIN number.

Detention Operations Coordination Center (DOCC): Detention space is suitable within the Atlanta AOR, and detention locations have been identified. Although DOCC assistance was not requested they have been provided a copy of this operational plan and have concurred with the operation.

#### **D) Safety and Logistics**

1. Mandatory Element: **Safety is paramount.** All personnel participating in the operation will be aware of local facility emergency procedures; and a team leader will be assigned to ensure that these procedures are followed.
2. Primary processing location: Aliens encountered from the designated facility that require immediate transfer to ICE will be transported to the Charlotte, North Carolina Sub-office for processing. All transportation will be conducted per DRO policy.
  - a. Secondary detention and processing site(s) to be determined as needed.
  - b. The SDDO will coordinate requests for additional staff to support Surge Operations. Requests will be made through the appropriate AFOD with concurrence from the Atlanta FOD.
3. Logistics.
  - a. Lodging and per diem expenses will not be required for the Surge Operation. In the event that the need arises to utilize lodging and per diem, funding will be requested from CAPHQ.
  - b. The Surge Operation will not require any Health & Safety inspections at any facility.
4. Removal Efforts: It is the intent of the FOD to process all removable aliens in an expeditious manner. The below actions will be performed to facilitate this objective:
  - a. Immediately upon determination of alienage and removability, an Immigration detainer, form I-247, will be logged using the ENFORCE system.

- b. All arrests that require a Notice to Appear (NTA) will be presented with the option of a Stipulated Removal if applicable to the Field Office's AOR. The OPLA/ATL and EOIR/ATL have been advised and contacted as to the availability to approve stipulated removals during the Surge. All other Immigration proceedings will be utilized as applicable.
- c. DRO personnel will be instructed to secure and place any and all identity documents relating to each removable subject in the "A" file. Additionally, they will be instructed to ensure that photocopies are placed in the subjects' "A" file. DRO personnel will make every legal effort to secure these documents.

#### **E) General Reporting Requirements**

1. Weekly Reports: Submitted to the AFOD and HQCAP Operations Unit utilizing the "Surge Activity Report" spreadsheet.

Via/Transmission: E-mail (b)(6), (b)(7)c mailbox)

Due: 1200 EST each Friday

Period Covered: Friday through Thursday (0001-2400 hours)

2. Weekly Reports: Standard HQCAP reporting.
3. Significant Event Notification (SEN): A SEN/SIR will need to be submitted only if events or incidences occur that warrant their submission in accordance with established policy and procedures.
4. Report Format: At the conclusion of the Surge, the field office's POC to the CAP Operations Unit, previously identified above, will ensure that HQCAP is properly supplied with the final statistical report for the Surge. This will be due by 1400 hours the day after completion of Surge Operations. .

#### **F) After Action Reporting Requirements**

1. Initial after action conferences will be conducted as follows:

- a. Key operational personnel involved in the final Phase(s) of the Surge will be held on April 14th, 2010 at the Charlotte, NC Sub-Office.
2. Format: The format for issues will be:
  - a. Topic
  - b. Discussion
  - c. Recommendation(s)
3. Formal after action report: A memorandum of results will be generated and forwarded to the FOD for review.
4. Atlanta Public Affairs will coordinate with the FOD and generate a press release upon completion of the operation. (b)(6), (b)(7)c (305) 970-(b)(6), (b)(7)c

**G) Command and Control**

1. Primary means of communication will be via radio as allowed by each facility, as well as telephone and e-mail.
2. All personnel will have identifiers created with SECTOR communications to facilitate record checks and status verifications.

AUTHORIZING OFFICIAL

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Felicia Skinner  
Field Office Director  
Atlanta Field Office

APPROVING OFFICIAL

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Thomas Homan  
Assistant Director, Enforcement  
Office of Detention and Removal

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**Atlanta Field Office**  
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**HEADQUARTERS  
CRIMINAL ALIEN PROGRAM OPERATIONS UNIT**

**CRIMINAL ALIEN PROGRAM  
Atlanta FIELD OFFICE**

**CAP REMOVAL SURGE Operation  
Dates: May 16, 2010 - May 18, 2010**

**I. Situation**

CAP Removal Surge Operations are conducted to ensure 100% of all individuals booked into targeted facilities that are amenable to immediate removal obtain a removal order, or are voluntarily returned to their country of citizenship once released from local law enforcement custody or otherwise are placed into removal proceedings.

Surge Operations will be conducted within the Atlanta Field Office Area of Operational Responsibility (AOR). The Field Office Director (FOD), Deputy Field Office Director (DFOD), and Assistant Field Office Director (AFOD) have all been briefed on this operational plan; and they each support its execution upon approval from HQDRO.

**A) Targeted Facilities**

- Guilford County Detention Center- It is estimated that 100 criminal aliens, are currently immediately removable and 25 not previously identified that will be processed for immediate removal from the United States.

**B) Hours of Operation**

During the Surge, all individuals booked into and released from the facility will be screened for alienage and removability. The current incarcerated population in the facility will be screened as manpower and time permit.

DRO Staff will be on site as follows:

## Team

- (b)(7)e Operational Hours
- Supervisory Detention & Deportation Officers
- (b)(7)e Deportation Officers
- Immigration Enforcement Agents

Coverage outside of these hours will be accomplished by N/A.

**\*\*\* Supervisory staff will change shift hours as needed, in order to effectively facilitate the operation.**

## C) Staffing

The Surge will not require additional support from outside the field office. The FOD has committed all necessary resources within his or her jurisdiction.

Requested detail staff positions:

\_\_\_SDDO

\_\_\_DO

\_\_\_SIEA

\_\_\_IEA

\_\_\_DRA

## D) Community Issues or Politically Sensitive Issues

Three days prior to the execution of the Surge, the Field Office will provide the Office of Public Affairs (OPA) and Office of Congressional Relations (OCR) with the specifics of the operation, including the operational dates and location of the initiative. Due to social and political climates, this operation may result in a negative response from the communities in which it is conducted.

## E) Prosecutions



In instances where an alien is amenable to prosecution (e.g. re-entry, false claims), the case will be presented to the United States Attorneys Office (AUSA) for criminal prosecution. These presentations will be noted in TECS.

## **II. Mission**

The primary objective of the Criminal Alien Program (CAP) is to ensure that all criminal aliens serving criminal sentences are processed for removal prior to their release from Federal, State and local custody. This intention affirms the ultimate mission of ICE/DRO, which is to effect the removal of criminal aliens upon being turned over to ICE custody. CAP strives to ensure that all incarcerated foreign-born nationals are screened; and where applicable, processed for removal from the United States. CAP Surge Operations are an enhanced part of this effort with a goal to ensure 100% of all inmates booked into and released from targeted facilities are screened for alienage and removability and when applicable, processed for removal from the United States.

### **Execution**

#### **A) Director's Intent**

CAP's primary objective is to ensure that all criminal aliens serving criminal sentences are processed for removal prior to their release from Federal, State and local custody.

#### **B) Concept of Operations**

The Field Office will implement CAP Removal Surge Operations are conducted are to ensure 100% of all individuals booked into targeted facilities that are amenable to immediate removal obtain a removal order, or are voluntarily returned to their country of citizenship once released from local law enforcement custody or otherwise are placed into removal proceedings.

As efforts progress, field office resources may be reassigned to other geographical areas to meet operational needs; or returned to their official duty posts, as deemed appropriate by the SDDO. A liaison officer will be responsible for establishing and coordinating operations with correction officials at target facilities where Surge Operations will be conducted.

DRO enforcement personnel will identify themselves as ICE Officers or Agents to all persons questioned. ICE Officers/Agents will only wear official ICE uniforms and indentifying equipment. In addition, all personnel will follow ICE policy to carry ICE credentials to prove the authorization that enables them to perform the various functions involved in the Surge Operation.

This operation will consist of 3 days of surge activities being executed at the Guilford County Detention Center AOR from May 16, 2010 through May 18, 2010.

Phase I: May 14, 2010: Operational briefing at 1300 hours at (b)(6), (b)(7)c (b)(6), (b)(7)c Charlotte, NC. All officers participating in the operation will attend this pre-operational briefing.

Phase II: May 16, 2010: Officers from the Atlanta Field Office will deploy to the Guilford County Detention Center to initiate screening.

Phase III: May 19, 2010: If deemed necessary, the Atlanta Public Affairs Office will issue a press release following the completion of the operation, once approved by the FOD.

### C) Tasks

1. The Point of Contact (POC) for communications with HQCAP Operations Unit is SDDO (b)(6), (b)(7)c Their cell phone number is 336-462 (b)(6), (b)(7)c and their desk number is 704-672 (b)(6), (b)(7)c They will report to HQCAP Operations each Friday by Noon EST, using the CAP Surge Tracking spreadsheet with updated statistics.
2. Fugitive Operations Support Center (FOSC): A copy of the Operational Plan and target list has been sent to the FOSC. Provide FOSC with inmate roster prior to commencement of the SURGE.
3. The Law Enforcement Support Center (LESC) is available 24 hours a day, seven days a week and can provide support for the Surge. On May 10, 2010, Section Chief (b)(6), (b)(7)c (802) 872 (b)(6), (b)(7)c will be notified of the dates and times of the operation. Officers/agents participating in the operation should have the contact number for the LESL and a PIN number.

Detention Operations Coordination Center (DOCC): Detention space is suitable within the Atlanta AOR, and detention locations have been identified. Although DOCC assistance was not requested they have been provided a copy of this operational plan and have concurred with the operation.

#### **D) Safety and Logistics**

1. Mandatory Element: **Safety is paramount.** All personnel participating in the operation will be aware of local facility emergency procedures; and a team leader will be assigned to ensure that these procedures are followed.
2. Primary processing location: Aliens encountered from the designated facility that require immediate transfer to ICE will be transported to the Charlotte, North Carolina Sub-office for processing. All transportation will be conducted per DRO policy.
  - a. Secondary detention and processing site(s) to be determined as needed.
  - b. The SDDO will coordinate requests for additional staff to support Surge Operations. Requests will be made through the appropriate AFOD with concurrence from the Atlanta FOD.
3. Logistics.
  - a. Lodging and per diem expenses will not be required for the Surge Operation. In the event that the need arises to utilize lodging and per diem, funding will be requested from CAPHQ.
  - b. The Surge Operation will not require any Health & Safety inspections at any facility.
4. Removal Efforts: It is the intent of the FOD to process all removable aliens in an expeditious manner. The below actions will be performed to facilitate this objective:
  - a. Immediately upon determination of alienage and removability, an Immigration detainer, form I-247, will be logged using the ENFORCE system.

- b. All arrests that require a Notice to Appear (NTA) will be presented with the option of a Stipulated Removal if applicable to the Field Office's AOR. The OPLA/ATL and EOIR/ATL have been advised and contacted as to the availability to approve stipulated removals during the Surge. All other Immigration proceedings will be utilized as applicable.
- c. DRO personnel will be instructed to secure and place any and all identity documents relating to each removable subject in the "A" file. Additionally, they will be instructed to ensure that photocopies are placed in the subjects' "A" file. DRO personnel will make every legal effort to secure these documents.

#### **E) General Reporting Requirements**

1. Weekly Reports: Submitted to the AFOD and HQCAP Operations Unit utilizing the "Surge Activity Report" spreadsheet.

Via/Transmission: E-mail (b)(6), (b)(7)c mailbox)

Due: 1200 EST each Friday

Period Covered: Friday through Thursday (0001-2400 hours)

2. Weekly Reports: Standard HQCAP reporting.
3. Significant Event Notification (SEN): A SEN/SIR will need to be submitted only if events or incidences occur that warrant their submission in accordance with established policy and procedures.
4. Report Format: At the conclusion of the Surge, the field office's POC to the CAP Operations Unit, previously identified above, will ensure that HQCAP is properly supplied with the final statistical report for the Surge. This will be due by 1400 hours the day after completion of Surge Operations. .

#### **F) After Action Reporting Requirements**

1. Initial after action conferences will be conducted as follows:

- a. Key operational personnel involved in the final Phase(s) of the Surge will be held on May 19, 2010 at the Charlotte, NC Sub-Office.
2. Format: The format for issues will be:
  - a. Topic
  - b. Discussion
  - c. Recommendation(s)
3. Formal after action report: A memorandum of results will be generated and forwarded to the FOD for review.
4. Atlanta Public Affairs will coordinate with the FOD and generate a press release upon completion of the operation. (b)(6), (b)(7)c (305) 970- (b)(6), (b)(7)c

#### **G) Command and Control**

1. Primary means of communication will be via radio as allowed by each facility, as well as telephone and e-mail.
2. All personnel will have identifiers created with SECTOR communications to facilitate record checks and status verifications.

AUTHORIZING OFFICIAL

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Felicia Skinner  
Field Office Director  
Atlanta Field Office

APPROVING OFFICIAL

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Thomas Homan  
Assistant Director, Enforcement  
Office of Detention and Removal

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Immigration and Customs Enforcement  
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**CRIMINAL ALIEN PROGRAM OPERATIONS UNIT**

**CRIMINAL ALIEN PROGRAM  
XXXX FIELD OFFICE**

**CAP REMOVAL SURGE Operation**

**Dates: Month XX-XX, 2010**

**I. Situation**

CAP Removal Surge Operations are conducted to ensure 100% of all individuals booked into targeted facilities that are amenable to immediate removal obtain a removal order, or are voluntarily returned to their country of citizenship once released from local law enforcement custody or otherwise are placed into removal proceedings.

Surge Operations will be conducted within the XXXX Field Office Area of Operational Responsibility (AOR). The Field Office Director (FOD), Deputy Field Office Director (DFOD), and Assistant Field Office Director (AFOD) have all been briefed on this operational plan; and they each support its execution upon approval from HQDRO.

**A) Targeted Facilities**

- **Facility name**- It is estimated that XX number of criminal aliens, are currently immediately removable and XX not previously identified that will be processed for immediate removal from the United States.

**B) Hours of Operation**

During the Surge, all individuals booked into and released from the facility will be screened for alienage and removability. The current incarcerated population in the facility will be screened as manpower and time permit.

DRO Staff will be on site as follows:

**Team/Shift One**



- 00:00 to 00:00 -Operational Hours
  - Supervisory Detention & Deportation Officers
  - Deportation Officers
  - Supervisory Immigration Enforcement Agent
  - Immigration Enforcement Agents
  - Deportation Removal Assistant
  - Other Support (ie. JPATS, PATH)  
(list)
- 

### Team/Shift Two

- 00:00 to 00:00 -Operational Hours
  - Supervisory Detention & Deportation Officers
  - Deportation Officers
  - Supervisory Immigration Enforcement Agent
  - Immigration Enforcement Agents
  - Deportation Removal Assistant
  - Other Support (ie. JPATS, PATH)  
(list)
- 

### Team/Shift Three

- 00:00 to 00:00 -Operational Hours
  - Supervisory Detention & Deportation Officers
  - Deportation Officers
  - Supervisory Immigration Enforcement Agent
  - Immigration Enforcement Agents
  - Deportation Removal Assistant
  - Other Support (ie. JPATS, PATH)  
(list)
- 

Coverage outside of these hours will be accomplished by [REDACTED].

**\*\*\* Supervisory staff will change shift hours as needed, in order to effectively facilitate the operation.**

**C) Staffing**

The Surge **will / will not** require additional support from outside the field office. The FOD has committed all necessary resources within his or her jurisdiction.

Requested detail staff positions:

\_\_\_ SDDO

\_\_\_ DO

\_\_\_ SIEA

\_\_\_ IEA

\_\_\_ DRA

**D) Community Issues or Politically Sensitive Issues**

Three days prior to the execution of the Surge, the Field Office will provide the Office of Public Affairs (OPA) and Office of Congressional Relations (OCR) with the specifics of the operation, including the operational dates and location of the initiative. Due to social and political climates, this operation may result in a negative response from the communities in which it is conducted. .

**E) Prosecutions**

In instances where an alien is amenable to prosecution (e.g. re-entry, false claims), the case will be presented to the United States Attorneys Office (AUSA) for criminal prosecution. These presentations will be noted in TECS.

**II. Mission**

The primary objective of the Criminal Alien Program (CAP) is to ensure that all criminal aliens serving criminal sentences are processed for removal prior to their release from Federal, State and local custody. This intention affirms the ultimate mission of

**Department of Homeland Security  
Immigration and Customs Enforcement  
Detention and Removal Operations  
Criminal Alien Division**

ICE/DRO, which is to effect the removal of criminal aliens upon being turned over to ICE custody. CAP strives to ensure that all incarcerated foreign-born nationals are screened; and where applicable, processed for removal from the United States. CAP Surge Operations are an enhanced part of this effort with a goal to ensure 100% of all inmates booked into and released from targeted facilities are screened for alienage and removability and when applicable, processed for removal from the United States.

**Execution**

**A) Director's Intent**

CAP's primary objective is to ensure that all criminal aliens serving criminal sentences are processed for removal prior to their release from Federal, State and local custody.

**B) Concept of Operations**

The Field Office will implement CAP Removal Surge Operations are conducted are to ensure 100% of all individuals booked into targeted facilities that are amenable to immediate removal obtain a removal order, or are voluntarily returned to their country of citizenship once released from local law enforcement custody or otherwise are placed into removal proceedings.

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As efforts progress, field office resources may be reassigned to other geographical areas to meet operational needs; or returned to their official duty posts, as deemed appropriate by the SDDO. A liaison officer will be responsible for establishing and coordinating operations with correction officials at target facilities where Surge Operations will be conducted.

DRO enforcement personnel will identify themselves as ICE Officers or Agents to all persons questioned. ICE Officers/Agents will only wear official ICE uniforms and indentifying equipment. In addition, all personnel will follow ICE policy to carry ICE credentials to prove the authorization that enables them to perform the various functions involved in the Surge Operation.

This operation will consist of [redacted] days of surge activities being executed at the [redacted] AOR from [redacted] through [redacted].

**Law Enforcement Sensitive-Official Use Only**

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Phase I: **Month, XX, 200X**: Operational briefing at **XXXX** hours at the **XXXX**. All officers participating in the operation will attend this pre-operational briefing.

Phase II: **Month, XX, 200X**: Officers from the **XXXX** Field Office will deploy to the **name facility** to initiate screening.

Phase III: **Month, XX, 200X**: If deemed necessary, the **XXXX** Public Affairs Office will issue a press release following the completion of the operation, once approved by the FOD.

### C) Tasks

1. The Point of Contact (POC) for communications with HQCAP Operations Unit is **name of contact**. Their cell phone number is **###-###-####**; and their desk number is **###-###-####**. They will report to HQCAP Operations each Friday by Noon EST, using the CAP Surge Tracking spreadsheet with updated statistics.
2. Fugitive Operations Support Center (FOSC): A copy of the Operational Plan and target list has been sent to the FOSC. Provide FOSC with inmate roster prior to commencement of the SURGE.
3. The Law Enforcement Support Center (LESC) is available 24 hours a day, seven days a week and can provide support for the Surge. On **MONTH XX, 200X**, Section Chief \_\_\_\_\_ (000) 000-0000 was notified of the dates and times of the operation. Officers/agents participating in the operation should have the contact number for the LESL and a PIN number.
4. Detention Operations Coordination Center (DOCC): Detention space is **limited / suitable** within the **XXXX** AOR, and detention locations have been identified. (Although DOCC assistance was not requested they have been provided a copy of this operational plan and have concurred with the operation) **or** ( The DOCC has been provided a copy of this Operational plan and their assistance was requested, the DOCC has concurred with the operation and will be providing the following assistance.)

### D) Safety and Logistics

1. Mandatory Element: **Safety is paramount.** All personnel participating in the operation will be aware of local facility emergency procedures; and a team leader will be assigned to ensure that these procedures are followed.
2. Primary processing location: Aliens encountered from the designated facility that require immediate transfer to ICE will be transported to the **XXXX** for processing. All transportation will be conducted per DRO policy.
  - a. Secondary detention and processing site(s) to be determined as needed.
  - b. The SDDO will coordinate requests for additional staff to support Surge Operations. Requests will be made through the appropriate AFOD with concurrence from the **XXXX** FOD.
3. Logistics.
  - a. Lodging and per diem expenses **will/will not** be required for the Surge Operation. In the event that the need arises to utilize lodging and per diem, funding will be requested from CAPHQ.
  - b. The Surge Operation will not require any Health & Safety inspections at any facility.
4. Removal Efforts: It is the intent of the FOD to process all removable aliens in an expeditious manner. The below actions will be performed to facilitate this objective:
  - a. Immediately upon determination of alienage and removability, an Immigration detainer, form I-247, will be logged using the ENFORCE system.
  - b. All arrests that require a Notice to Appear (NTA) will be presented with the option of a Stipulated Removal if applicable to the Field Office's AOR. The **OPLA/XXX** and **EOIR/XX** have been advised and contacted as to the availability to approve stipulated removals during the Surge. All other Immigration proceedings will be utilized as applicable.

- c. DRO personnel will be instructed to secure and place any and all identity documents relating to each removable subject in the “A” file. Additionally, they will be instructed to ensure that photocopies are placed in the subjects’ “A” file. DRO personnel will make every legal effort to secure these documents.

#### **E) General Reporting Requirements**

1. Weekly Reports: Submitted to the AFOD and HQCAP Operations Unit utilizing the “Surge Activity Report” spreadsheet.

Via/Transmission: E-mail (b)(6), (b)(7) (mailbox)

Due: 1200 EST each Friday

Period Covered: Friday through Thursday (0001-2400 hours)

2. Weekly Reports: Standard HQCAP reporting.
3. Significant Event Notification (SEN): A SEN/SIR will need to be submitted only if events or incidences occur that warrant their submission in accordance with established policy and procedures.
4. Report Format: At the conclusion of the Surge, the field office’s POC to the CAP Operations Unit, previously identified above, will ensure that HQCAP is properly supplied with the final statistical report for the Surge. This will be due by 1400 hours the day after completion of Surge Operations. .

#### **F) After Action Reporting Requirements**

1. Initial after action conferences will be conducted as follows:
  - a. Key operational personnel involved in the final Phase(s) of the Surge will be held on **Month XX, 200X** at the **XXXX**.
2. Format: The format for issues will be:
  - a. Topic
  - b. Discussion

c. Recommendation(s)

3. Formal after action report: A memorandum of results will be generated and forwarded to the FOD for review.
4. XXXX Public Affairs will coordinate with the FOD and generate a press release upon completion of the operation. Public Affairs contact number(s)

**G) Command and Control**

1. Primary means of communication will be via radio as allowed by each facility, as well as telephone and e-mail.
2. All personnel will have identifiers created with SECTOR communications to facilitate record checks and status verifications.

AUTHORIZING OFFICIAL

\_\_\_\_\_  
NAME  
Field Office Director  
XX Field Office

APPROVING OFFICIAL

\_\_\_\_\_  
(b)(6), (b)(7)c  
(A) Assistant Director, Enforcement  
Office of Detention and Removal

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CRIMINAL ALIEN PROGRAM OPERATIONS UNIT**

**CRIMINAL ALIEN PROGRAM  
Atlanta FIELD OFFICE**

**CAP REMOVAL SURGE Operation  
Dates: May 21, 2010 - May 23, 2010**

**I. Situation**

CAP Removal Surge Operations are conducted to ensure 100% of all individuals booked into targeted facilities that are amenable to immediate removal obtain a removal order, or are voluntarily returned to their country of citizenship once released from local law enforcement custody or otherwise are placed into removal proceedings.

Surge Operations will be conducted within the Atlanta Field Office Area of Operational Responsibility (AOR). The Field Office Director (FOD), Deputy Field Office Director (DFOD), and Assistant Field Office Director (AFOD) have all been briefed on this operational plan; and they each support its execution upon approval from HQDRO.

**A) Targeted Facilities**

- J. Reuben Long Detention Center- It is estimated that 50 criminal aliens, are currently immediately removable and 35 not previously identified that will be processed for immediate removal from the United States.

**B) Hours of Operation**

During the Surge, all individuals booked into and released from the facility will be screened for alienage and removability. The current incarcerated population in the facility will be screened as manpower and time permit.

DRO Staff will be on site as follows:

**Team/Shift One**

- (b)(7)e - Operational Hours
- Supervisory Detention & Deportation Officers
- (b)(7)e Deportation Officers
- Immigration Enforcement Agents

**Team/Shift Two**

- (b)(7)e Operational Hours
- Supervisory Detention & Deportation Officers
- (b)(7)e Deportation Officers
- Immigration Enforcement Agents

Coverage outside of these hours will be accomplished by N/A.

**\*\*\* Supervisory staff will change shift hours as needed, in order to effectively facilitate the operation.**

**C) Staffing**

The Surge will not require additional support from outside the field office. The FOD has committed all necessary resources within his or her jurisdiction.

Requested detail staff positions:

\_\_\_ SDDO

\_\_\_ DO

\_\_\_ SIEA

\_\_\_ IEA

\_\_\_ DRA

**D) Community Issues or Politically Sensitive Issues**

Three days prior to the execution of the Surge, the Field Office will provide the Office of Public Affairs (OPA) and Office of Congressional Relations (OCR) with the specifics of the operation, including the operational dates and location of the initiative. Due to social and political climates, this operation may result in a negative response from the communities in which it is conducted.

### **E) Prosecutions**

In instances where an alien is amenable to prosecution (e.g. re-entry, false claims), the case will be presented to the United States Attorneys Office (AUSA) for criminal prosecution. These presentations will be noted in TECS.

## **II. Mission**

The primary objective of the Criminal Alien Program (CAP) is to ensure that all criminal aliens serving criminal sentences are processed for removal prior to their release from Federal, State and local custody. This intention affirms the ultimate mission of ICE/DRO, which is to effect the removal of criminal aliens upon being turned over to ICE custody. CAP strives to ensure that all incarcerated foreign-born nationals are screened; and where applicable, processed for removal from the United States. CAP Surge Operations are an enhanced part of this effort with a goal to ensure 100% of all inmates booked into and released from targeted facilities are screened for alienage and removability and when applicable, processed for removal from the United States.

### **Execution**

#### **A) Director's Intent**

CAP's primary objective is to ensure that all criminal aliens serving criminal sentences are processed for removal prior to their release from Federal, State and local custody.

#### **B) Concept of Operations**

The Field Office will implement CAP Removal Surge Operations are conducted are to ensure 100% of all individuals booked into targeted facilities that are amenable to immediate removal obtain a removal order, or are voluntarily

returned to their country of citizenship once released from local law enforcement custody or otherwise are placed into removal proceedings.

As efforts progress, field office resources may be reassigned to other geographical areas to meet operational needs; or returned to their official duty posts, as deemed appropriate by the SDDO. A liaison officer will be responsible for establishing and coordinating operations with correction officials at target facilities where Surge Operations will be conducted.

DRO enforcement personnel will identify themselves as ICE Officers or Agents to all persons questioned. ICE Officers/Agents will only wear official ICE uniforms and indentifying equipment. In addition, all personnel will follow ICE policy to carry ICE credentials to prove the authorization that enables them to perform the various functions involved in the Surge Operation.

This operation will consist of three (3) days of surge activities being executed at the J. Reuben Long Detention Center AOR from May 21, 2010 through May 23, 2010.

Phase I: May 20, 2010: Operational briefing at 1330 hours at (b)(6), (b)(7)c Charleston, SC. All officers participating in the operation will attend this pre-operational briefing and travel to Horry County to stage for the operation.

Phase II: May 21, 2010: Officers from the Atlanta Field Office will deploy to the J. Reuben Long Detention Center to initiate screening.

Phase III: May 24, 2010: If deemed necessary, the Atlanta Public Affairs Office will issue a press release following the completion of the operation, once approved by the FOD.

### **C) Tasks**

1. The Point of Contact (POC) for communications with HQCAP Operations Unit is SDDO (b)(6), (b)(7)c. Their cell phone number is (843) 302-(b)(6), (b)(7)c and their desk number is (843) 727-(b)(6), (b)(7)c. They will report to HQCAP Operations each Friday by Noon EST, using the CAP Surge Tracking spreadsheet with updated statistics.

2. Fugitive Operations Support Center (FOSC): A copy of the Operational Plan and target list has been sent to the FOSC. Provide FOSC with inmate roster prior to commencement of the SURGE.
3. The Law Enforcement Support Center (LESC) is available 24 hours a day, seven days a week and can provide support for the Surge. On May 14, 2010, Section Chief (b)(6), (b)(7)c (802) 872 (b)(6), (b)(7) will be notified of the dates and times of the operation. Officers/agents participating in the operation should have the contact number for the LESL and a PIN number.

Detention Operations Coordination Center (DOCC): Detention space is suitable within the Atlanta AOR, and detention locations have been identified. Although DOCC assistance was not requested they have been provided a copy of this operational plan and have concurred with the operation.

#### **D) Safety and Logistics**

1. Mandatory Element: **Safety is paramount.** All personnel participating in the operation will be aware of local facility emergency procedures; and a team leader will be assigned to ensure that these procedures are followed.
2. Primary processing location: Aliens encountered from the designated facility that require immediate transfer to ICE will be transported to the Charleston, South Carolina Sub-office for processing. All transportation will be conducted per DRO policy.
  - a. Secondary detention and processing site(s) to be determined as needed.
  - b. The SDDO will coordinate requests for additional staff to support Surge Operations. Requests will be made through the appropriate AFOD with concurrence from the Atlanta FOD.
3. Logistics.
  - a. Lodging and per diem expenses will be required for the Surge Operation. In the event that the need arises to utilize lodging and per diem, funding will be requested from CAPHQ. Lodging and

per diem will be needed for (b)(7)e SDDOs, (b)(7)e DOs, (b)(7)e IEAs. Travel days are May 20, 2010 and May 23, 2010.

- b. It is anticipated that a total of (b)(7)e hrs of overtime will be needed. Overtime hours breakdown is as follows: Friday, May 21, 2010 - (b)(7)e (b)(7)e, Saturday, May 22, 2010 - (b)(7)e (b)(7)e Sunday, May 23, 2010 - (b)(7)e (b)(7)e

- c. Lodging (b)(7)e M&IE (b)(7)e. 1st and last day are at 3/4 travel (b)(7)e officers x (b)(7)e per officer = **\$6,447**

- d. The Surge Operation will not require any Health & Safety inspections at any facility.

4. Removal Efforts: It is the intent of the FOD to process all removable aliens in an expeditious manner. The below actions will be performed to facilitate this objective:

- a. Immediately upon determination of alienage and removability, an Immigration detainer, form I-247, will be logged using the ENFORCE system.
- b. All arrests that require a Notice to Appear (NTA) will be presented with the option of a Stipulated Removal if applicable to the Field Office's AOR. The OPLA/ATL and EOIR/ATL have been advised and contacted as to the availability to approve stipulated removals during the Surge. All other Immigration proceedings will be utilized as applicable.
- c. DRO personnel will be instructed to secure and place any and all identity documents relating to each removable subject in the "A" file. Additionally, they will be instructed to ensure that photocopies are placed in the subjects' "A" file. DRO personnel will make every legal effort to secure these documents.

## E) General Reporting Requirements

1. Weekly Reports: Submitted to the AFOD and HQCAP Operations Unit utilizing the “Surge Activity Report” spreadsheet.

Via/Transmission: E-mail (b)(6), (b)(7)c mailbox)

Due: 1200 EST each Friday

Period Covered: Friday through Thursday (0001-2400 hours)

2. Weekly Reports: Standard HQCAP reporting.
3. Significant Event Notification (SEN): A SEN/SIR will need to be submitted only if events or incidences occur that warrant their submission in accordance with established policy and procedures.
4. Report Format: At the conclusion of the Surge, the field office’s POC to the CAP Operations Unit, previously identified above, will ensure that HQCAP is properly supplied with the final statistical report for the Surge. This will be due by 1400 hours the day after completion of Surge Operations. .

#### **F) After Action Reporting Requirements**

1. Initial after action conferences will be conducted as follows:
  - a. Key operational personnel involved in the final Phase(s) of the Surge will be held on May 24, 2010 at the Charleston, SC Sub-Office.
2. Format: The format for issues will be:
  - a. Topic
  - b. Discussion
  - c. Recommendation(s)
3. Formal after action report: A memorandum of results will be generated and forwarded to the FOD for review.
4. Atlanta Public Affairs will coordinate with the FOD and generate a press release upon completion of the operation. (b)(6), (b)(7)c (305) 970-(b)(6), (b)(7)c



**G) Command and Control**

1. Primary means of communication will be via radio as allowed by each facility, as well as telephone and e-mail.
2. All personnel will have identifiers created with SECTOR communications to facilitate record checks and status verifications.

AUTHORIZING OFFICIAL

---

Felicia Skinner  
Field Office Director  
Atlanta Field Office

APPROVING OFFICIAL

---

Thomas Homan  
Assistant Director, Enforcement  
Office of Detention and Removal

DISTRIBUTION:

FOD  
DFOD  
Operations AFOD  
HQCAP

**From:** (b)(6), (b)(7)c  
**To:** (b)(6), (b)(7)c  
**Cc:**  
**Subject:** NCSA Meeting  
**Date:** Friday, January 22, 2010 4:01:26 PM  
**Attachments:** [2010\\_01\\_22\\_15\\_04\\_09.pdf](#)

---

Marc,

I hope that all is well with you. Attached is a proposal for additional Secure Communities Counties. This is obviously just a proposal but it gives us a few options for the future. If you print them on a color printer it will be easier to read. Counties in Green are active and Counties in Yellow are proposed. As you flip thru them it shows the progression by Quarter and completion of activated counties for FY10.

The first page identifies activated counties that are up and running.

The second page identifies the proposed counties (8 total) for the 2<sup>nd</sup> Quarter (end of Feb. or March). The LEA Outreach has already been conducted for these counties. This rollout will have the biggest impact on resources. Charlotte received a total of 883 IARs in 2009 from these counties.

The third page identifies the proposed counties (7 total) for the 3<sup>rd</sup> Quarter. LEA Outreach to these counties has not been completed. This rollout phase will have less of an impact. Charlotte received a total of 208 IARs in 2009 from these counties. These counties are all located in the Western part of the state and will be handled by the CAP team in Henderson, NC.

The fourth page identifies the proposed counties (7 total) for the 4<sup>th</sup> Quarter. LEA Outreach to these counties has not been completed. This rollout phase will have virtually no impact on current resources. Charlotte received a total of 6 IARs from these counties. We have been referring to these counties as "Low Impact".

The fifth page is the completed FY10 rollout should we chose to go this route.

The sixth page is a list of the Counties proposed each Quarter and the amount of IARs we received from each county in 2009. In red is the total IARs received by the counties listed.

The last page is the completed 2009 NC IAQ Report.

I understand that there are finance issues, bed space issues, and FTE issues so this just gives us the ability to pick and choose between the phases/counties. It's also a way to keep the NCSA happy and meet any requirements that HQ SC may have with rolling out additional counties. This is just an FYI and some talking points for the meeting next week.

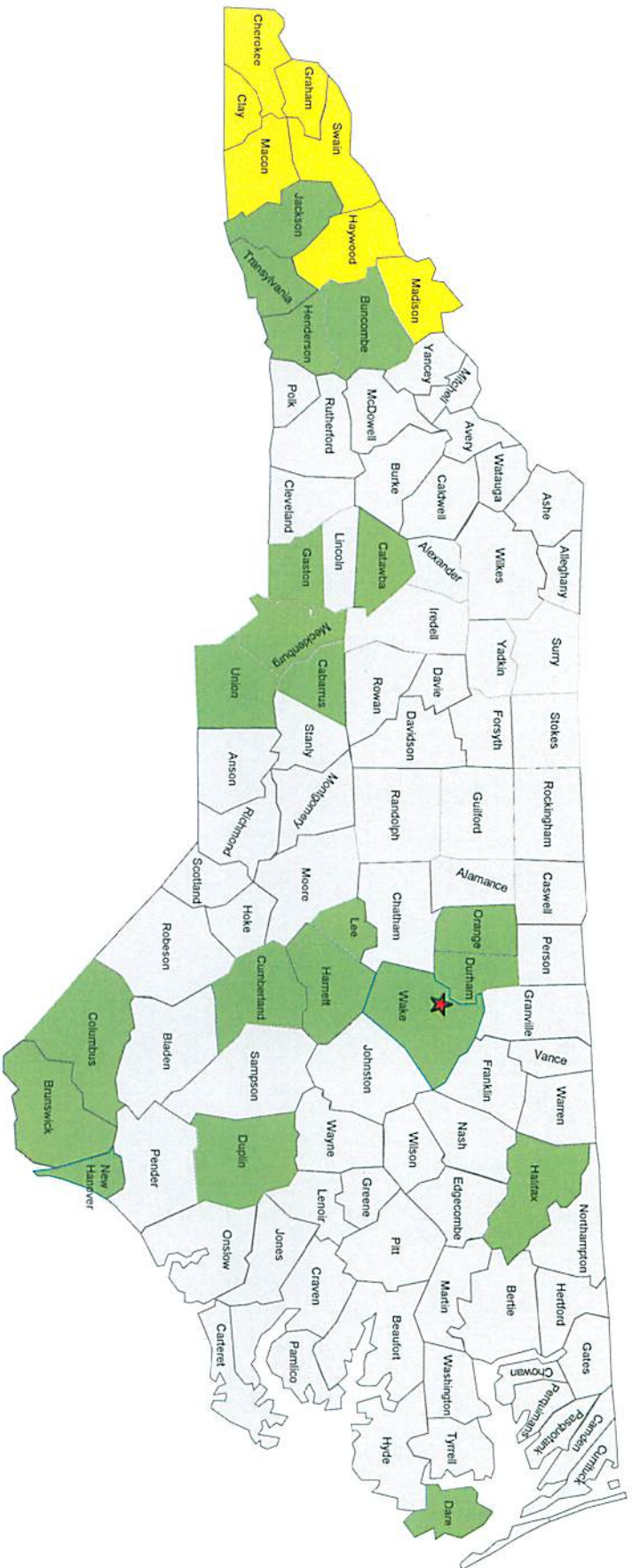
Take a look and let me know what you think. Have a good day.

(b)(6), (b)(7)c  
Supervisory Detention & Deportation Officer  
Charlotte, NC  
704-672-(b)(6), (b)(7)c





# North Carolina Secure Communities FY10 3<sup>rd</sup> Quarter Rollout







## North Carolina Secure Communities Rollout Phases

Current Counties:	IARs Received in 2009	
1. Buncombe	147	
2. Henderson	287g Program	
3. Catawba	117	
4. Gaston	287g Program	
5. Mecklenburg	287g Program	
6. Cabarrus	287g Program	
7. Orange	306	
8. Durham	189	
9. Wake	287g Program	
10. Harnett	117	
11. Cumberland	Was a 287g Program	
12. Duplin	347	
13. New Hanover	437	
<b>FY10 Proposed 2<sup>nd</sup> Quarter</b>		
1. Jackson	45	
2. Transylvania	60	
3. Union	369	
4. Lee	182	
5. Halifax	13	
6. Dare	117	
7. Columbus	80	
8. Brunswick	17	(883)
<b>FY10 Proposed 3<sup>rd</sup> Quarter (Western Co.)</b>		
1. Cherokee	22	
2. Clay	2	
3. Graham	1	
4. Macon	111	
5. Swain	14	
6. Haywood	57	
7. Madison	1	(208)
<b>FY10 Proposed 4<sup>th</sup> Quarter (Low Impact)</b>		
1. Mitchell	2	
2. Stokes	0	
3. Caswell	1	
4. Richmond	2	
5. Scotland	0	
6. Warren	1	
7. Pamlico	0	(6)



# NORTH CAROLINA IAQ REPORT FROM 01/01/2009 THROUGH 12/31/2009

Total Number of IAQs Received by NC CAP	Number of Counties IAQs Originated From	Number of Referred Cases Vetted by NC CAP	Number of Detainers Lodged by NC CAP	Number of Aliens Processed in ENFORCE
7756	90	7746	1821	1821

Guilford	729	Davidson	65	Swain	14
Forsyth	563	Pasquotank	63	Halifax	13
New Hanover	437	Transylvania	60	McDowell	13
Pitt	372	Yadkin	59	Montgomery	12
Johnston	370	Haywood	57	Vance	12
Union	369	Davie	56	Currituck	11
Duplin	347	Chatham	54	Jones	10
Orange	306	Franklin	54	Tyrrell	9
Iredell	270	Granville	50	Yancey	8
Rowan	264	Jackson	45	Anson	8
Durham	189	Surry	45	Hyde	6
Lee	182	Watauga	41	Martin	5
Randolph	176	Greene	39	Bertie	4
Wilson	153	Avery	38	Northampton	4
Buncombe	147	Pender	38	Cleveland	4
Lenoir	129	Rockingham	34	Herford	3
Hoke	123	Person	33	Chowan/Gates	3
Catawba	117	Stanly	31	Washington	2
Dare	117	Alleghany	26	Mitchell	2
Harnett	117	Burke	25	Clay	2
Robeson	117	Rutherford	25	Richmond	2
Macon	111	Cherokee	22	Graham	1
Lincoln	100	Beaufort	19	Warren	1
Moore	97	Brunswick	17	Caswell	1
Nash	91	Polk	17	Madison	1
Wayne	91	Edgecombe	17		
Onslow	90	Craven	17	Stokes	
Columbus	80	Ashe	17	Scotland	
Sampson	80	Caldwell	17	Pamlico	
Carteret	79	Wilkes	17		
Bladen	77	Alexander	16		

Note: Out of 7756 referrals received to date, North Carolina CAP Unit lodged detainers on 1821. Currently under review by NC CAP 10. Perquimans County and Camden County book bodies into Pasquotank County.

**From:** (b)(6), (b)(7)c  
**To:** (b)(6), (b)(7)c  
**Cc:**  
**Subject:** Prosecutor Notification Procedures  
**Date:** Friday, August 23, 2013 1:25:17 PM  
**Attachments:** [Prosecutor Notification Procedures \(01172012\) FINAL \(b\)\(7\)e bc](#)  
[Prosecutor Notification Form for Alien Being Removed 03 19 2012 1920-Pro....docx](#)

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**The following message is being sent out on behalf of Field Office Director Felicia S. Skinner as a reminder regarding prosecutor notification procedures.**

**ALLEOs** are reminded of the ongoing requirement to send out the attached Prosecutor Notification Form whenever an alien who is being removed shows a criminal charge in NCIC for which there is no corresponding disposition, such as a conviction or dismissal. In addition, a copy of the form sent to the prosecutor's office must be placed in the A-file, and a notation must be placed in EARM Case Comments stating that this required notification took place. Please see the attached Prosecutor Notification Procedures for additional information.

(b)(6), (b)(7)c

*Supervisory Detention and Deportation Officer  
Executive Response Unit / Training / OSH  
Atlanta ERO Field Office  
404-893-(b)(6), (b)(7)c (desk)  
404-354-(b)(6), (b)(7)c (cell)*

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US Department of Homeland Security US Immigration and Customs Enforcement Atlanta Field Office	<b>Procedure Number:</b>	<b>Pages:</b>  5
<b>Related Standards/Information:</b> National Detention Standards Memorandum from the Director dated June 15, 2007, and titled “Change Notice National Detention Standards Staff/Detainee Communication Model Protocol.”	Subject:  Prosecutor Notifications	

I. Purpose

- A. To establish guidelines for the Atlanta Field Office (FAT) for prosecutor notifications within the field office’s area of responsibility and the monitoring of th (b)(6), (b)(7)c (b)(6), (b)(7)c @dhs.gov mailbox.
- B. Nothing in this procedure is intended to amend or supersede National Detention Standards (NDS), ICE Detention Standards, and/or ICE HQ policy.

II. Docket Officer Procedures

- A. The docket officer will perform a case review of each case when it is initially assigned to the docket, to include a review of the subject’s NCIC criminal history.
- B. For each offense, NCIC Level 1, Level 2 or related to Driving Under the Influence (DUI), on the NCIC criminal history within the field office’s area of responsibility that does not indicate a disposition, the docket officer will complete the “DA - Solicitor Notification” form (see **APPENDIX A**).
- C. The docket officer will send the completed “DA –Solicitor Notification” form as an attachment to an e-mail message. The e-mail message is to be transmitted through the (b)(6), (b)(7)c @dhs.gov mailbox, with a copy to the officer’s and supervisor’s mailbox, to the appropriate prosecuting office’s designated e-mail address.
1. The current version of the “DA - Solicitor Notification” form to be utilized will be located in the (b)(6), (b)(7)c @dhs.gov mailbox, attached to the message titled “DA/Solicitor Notification Form”.
  2. The updated list of prosecutors in the Atlanta AOR will be maintained in the (b)(6), (b)(7)c dhs.gov mailbox in the message titled “List of DAs and Solicitors in the Atlanta AOR”.
- D. After e-mailing the completed “DA - Solicitor Notification” form to the appropriate prosecuting office, the docket officer will update EARM Case Comments with this information. The officer will also place a print out of the notification in the alien file.

- E. The docket officer will continue to monitor the (b)(6), (b)(7)c @dhs.gov mailbox until the detainee is released from ICE custody or is removed from the United States, in order to determine if the prosecuting office sends a response to the e-mail notification.
- F. The alien is not to be deported from the United States until at least 48 hours (excluding weekends and holidays) after the e-mail notification has been sent.
1. In instances when the detainee is released from ICE custody within 48-hours of the e-mail notification being sent, the docket officer will send a second notice to the prosecuting office informing that office of the alien's release from ICE custody. All other notifications should still be completed as per established guidelines and procedures.
  2. If a response is received from the prosecuting office indicating further interest in the alien, the docket officer will contact the prosecuting office, and advise the prosecuting office of the steps that office needs to take to obtain custody of the alien for prosecution. When applicable, the docket officer will also remind the prosecutor that the alien may be subject to extradition proceedings.
  3. If the prosecuting office does not send a response, the docket officer will notate "No Response Received" and the date in EARM Case Comments, as well as on the print out of the original e-mail in the alien file. If the prosecuting office does send a response, the docket officer will paste the contents of the response in EARM Case Comments, and place a print out of the response in the alien file.
- G. This process must be repeated again during the pre-release and pre-removal checks if the system checks still reveal any outstanding criminal cases that do not reflect a disposition, unless previously addressed during the initial notifications.

### III. Monitoring Procedures

- A. Although all assigned personnel to the Case Management Units must monitor the (b)(6), (b)(7)c (b)(6), (b)(7)c @dhs.gov mailbox daily, each location must identify a primary and alternate POC that will be responsible for the review, updates and responses to messages that are received.
- B. Each location will designate a primary and alternate Supervisory Detention Deportation Officer (SDDO) or a Deportation Officer (DO) that will conduct periodic reviews daily of the mailbox.
1. Notifications of who the location POCs is will be sent to the (b)(6), (b)(7)c (b)(6), (b)(7)c @dhs.gov mailbox. This message should include the location and the duty dates of the POCs in the subject line. The message should also include the POCs contact information in the event telephonic

contact must be made between the different location POCs. These messages will be stored in the message folder titled, "Duty POC".

2. This review should encompass all received submissions and ensuring the proper notifications are received by the appropriate docket officers and unit supervisors. Notifications that have been received, documented and completed should be stored in the appropriate location folders.
3. In instances where the provided e-mail requires the updating of the list of prosecutors in the Atlanta AOR. The designee must update the file maintained in the (b)(6), (b)(7)c [@dhs.gov](mailto: @dhs.gov) mailbox in the message titled "List of DAs and Solicitors in the Atlanta AOR".
4. If the POCs identify any docket officers that are not taking appropriate and timely action to any received responses, the POCs are required to elevate the notifications to the officer's supervisor. If the supervisor is unavailable or unresponsive, the POCs are to elevate the matter to the responsible Assistant Field Office Director.

**Appendix A**

*Enforcement and Removal Operations  
Atlanta Field Office*

**U.S. Department of Homeland Security**  
180 Spring Street, SW  
Atlanta, Georgia 30303



**U.S. Immigration  
and Customs  
Enforcement**

Date: \_\_\_\_\_

Via Facsimile to \_\_\_\_\_

Via e-mail to \_\_\_\_\_

[Recipient's Name & Title]  
[Recipient's Organization]  
[Recipient's Street Address]  
[Recipient's City, State, Zip Code]

This letter serves as notification that United States Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), Atlanta Field Office, will be enforcing an order of removal from the United States against the following individual who has been identified as a possible defendant, victim, or witness within your jurisdiction.

Alien's Name: \_\_\_\_\_

DOB: \_\_\_\_\_

Alien Number: \_\_\_\_\_

Case Number: \_\_\_\_\_

Date of Offense: \_\_\_\_\_

Comments: \_\_\_\_\_

Your agency, department or organization previously held interest in this individual, either as a defendant, witness or victim for the listed case. Please send an e-mail to this office at (b)(6), (b)(7)c @dhs.gov within 48 hours (excluding weekends and holidays) if your office still has interest in this individual, so that appropriate arrangements can be made for him or her to be returned to your jurisdiction. Please keep in mind that a writ or warrant may be required, as well as extradition, if applicable.

Sincerely,

A handwritten signature in blue ink, appearing to read "F. Skinner".

Felicia S. Skinner  
Field Office Director

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## Approval of Procedure

---

Felicia S. Skinner  
Field Office Director  
Atlanta Field Office

---

Date

Date: \_\_\_\_\_

Via Facsimile to \_\_\_\_\_

Via e-mail to \_\_\_\_\_

[Recipient's Name & Title]

[Recipient's Organization]

[Recipient's Street Address]

[Recipient's City, State, Zip Code]

This letter serves as notification that United States Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), Atlanta Field Office, will be enforcing an order of removal from the United States against the following individual who has been identified as a possible defendant, victim, or witness within your jurisdiction.

Alien's Name: \_\_\_\_\_

DOB: \_\_\_\_\_

FBI Number: \_\_\_\_\_

Alien Number: \_\_\_\_\_

Case Number: \_\_\_\_\_

Date of Offense: \_\_\_\_\_

Comments: \_\_\_\_\_

Your agency, department or organization previously held interest in this individual, either as a defendant, witness or victim for the listed case. Please send an e-mail to this office at (b)(6), (b)(7)c [@dhs.gov](mailto:_____@dhs.gov) within 48 hours (excluding weekends and holidays) if your office still has interest in this individual, so that appropriate arrangements can be made for him or her to be returned to your jurisdiction. Please keep in mind that a writ or warrant may be required, as well as extradition, if applicable.

Sincerely,



Felicia S. Skinner  
Field Office Director

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**From:** (b)(6), (b)(7)c  
**To:** (b)(6), (b)(7)c  
**Cc:**  
**Subject:** RE: HQ CAP POC  
**Date:** Monday, October 07, 2013 3:36:45 PM  
**Attachments:** [CAP\\_POC\\_08-20-13.xlsx](#)

---

Ms (b)(6), (b)(7)c

Attached is the updated CAP POC list for the Atlanta Field Office. I was already included on the list, however, I have added the AFOD POCs for our three sub-offices that also have CAP units.

Thanks,

(b)(6), (b)(7)c AFOD  
Criminal Alien Program / 287(g)  
Firearms & Tactical Training / VCAS  
Atlanta Field Office  
DHS - ICE - ERO

---

**From:** (b)(6), (b)(7)c  
**Sent:** Monday, October 07, 2013 11:16 AM  
**To:** (b)(6), (b)(7)c  
(b)(6), (b)(7)c  
**Subject:** HQ CAP POC

Good Morning Everyone,

HQ CAP has recently reorganized; I will be your POC for CAP. Will you please look at the attached spreadsheet and confirm that a) you are the AOR CAP POC and b) that your contact info is correct. If you are no longer the POC please let me know who has replaced you.

If you have any questions please feel free to contact me.

Thank you,

(b)(6), (b)(7)c  
ICE HQ, ERO, Criminal Alien Program  
500 12<sup>th</sup> Street S.W.  
Washington, D.C.  
Cell: 202-696-7848  
Office: 202-732-(b)(6), (b)(7)c  
Fax: 202-732-(b)(6), (b)(7)c  
(b)(6), (b)(7)c [@dhs.gov](mailto:(b)(6), (b)(7)c@dhs.gov)

I'd rather regret the things I've done than regret the things I haven't done. -Lucille Ball

**From:** (b)(6), (b)(7)c  
**To:**  
**Subject:** RE: News  
**Date:** Friday, January 08, 2010 1:55:25 PM

---

He is (b)(6), (b)(7)c He was issued an NTA and released OREC b/c he had no criminal history. He was not required on his OREC to report in person due to the fact that he is being supervised by CMPD while out and this investigation is pending.

He was already written up by the 287g deputies prior to any of this information regarding the below referenced incident was brought to light.

(b)(6), (b)(7)c

---

**From:** (b)(6), (b)(7)c  
**Sent:** Friday, January 08, 2010 1:42 PM  
**To:** (b)(6), (b)(7)c  
**Subject:** FW: News

Can you please contact Meck and get this individual name. Thanks

(b)(6), (b)(7)c  
Assistant Field Office Director  
Charlotte, NC 28217  
(704) 672 (b)(6), (b)(7)c

---

**From:** (b)(6), (b)(7)c  
**Sent:** Friday, January 08, 2010 12:33 PM  
**To:** (b)(6), (b)(7)c  
**Subject:** FW: News

Heads up. Possible media interst.....

---

(b)(6), (b)(7)c

*{a} Assistant Field Office Director  
Detention Management, Non-Detained & Fugitive Operations  
North Carolina  
{o} 704.672  
{c} 704.320  
{f} 704.672 (b)(6), (b)(7)c  
{bb} 202.359*

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**From:** (b)(6), (b)(7)c  
**Sent:** Friday, January 08, 2010 11:06 AM  
**To:** (b)(6), (b)(7)c  
**Subject:** News

## **Mexican Who Tried To Stop Cop From Fondling Woman May Be Deported (LAHT/EFE)**

Latin American Herald Tribune, January 8, 2010

CHARLOTTE, North Carolina - An undocumented Mexican immigrant is facing possible deportation after he was arrested for trying to defend his girlfriend from a Charlotte police officer accused of sexual assault on three women, two of them Hispanic.

Police in North Carolina's largest city revealed on Wednesday that a third victim, a 37-year-old Mexican woman who was not identified, filed a complaint against Marcus Jackson, 25, because he had sexually assaulted her.

Jackson has been under arrest since Dec. 30 in the Mecklenburg County jail, with bail set at almost \$500,000, for two previous accusations by a Latina and an African-American woman of kidnapping, extortion, assault, sexual abuse and indecent exposure.

The third victim, who is undocumented, said that on Dec. 29, when she was going home at night, Jackson stopped her in the parking lot of the apartment complex where she lives.

She also said that eight weeks earlier the same officer had fondled her breasts.

In the Dec. 29 incident, police say, the boyfriend of the victim tried to stop the abuse by calling 911 but Jackson seized his telephone and arrested him for resisting a police officer.

The Mexican man spent six days in the Charlotte jail and was subjected to the 287g program, which determined that he entered the country without the proper papers.

Although prosecutors dropped the charges, U.S. Immigration and Customs Enforcement issued an order for the immigrant to appear at a hearing to begin his deportation procedures.

The Hispanic community in Charlotte is disturbed by this situation, particularly because Jackson had a history of domestic violence before he joined the police force in September 2008.

"I'm very afraid he will go free. He knows where I live, he can follow me and do something to me," said the Mexican woman on Wednesday during the "La Voz de Charlotte" program on Radio Formula (1310-AM).

The show's host, Jorge Medina, told Efe on Thursday that this kind of situation hurts the already fractured relations between police and Latinos.

**From:**

**To:**

**Cc:**

**Subject:**

**Date:**

**Attachments:**

(b)(6), (b)(7)c

RE: Oversight of 287(g) Delegation of Authority Program

Thursday, April 08, 2010 8:06:08 AM

[Comments Template Oversight of 287g programs by DRO - ATL.doc](#)  
[287g directive doc 5apr10 w edits inc \(2\).doc](#)

(b)(5)

(b)(6), (b)(7)c

Assistant Field Office Director  
Detention & Removal Operations  
Immigration Customs Enforcement  
Atlanta Field Office  
Charlotte, North Carolina  
(704)678-  
(b)(6), (b)(7)c

**From:** (b)(6), (b)(7)c

**Sent:** Thursday, April 08, 2010 7:23 AM

**To:**

**Cc:**

(b)(6), (b)(7)c

**Subject:** FW: Oversight of 287(g) Delegation of Authority Program

**Importance:** High

Attached are my comments. Please forward to (b)(6), (b)(7)c @dhs.gov by Tuesday, April 13, 2010, at 2:00 p.m. I've pasted them below also:

Reference      Comment

(b)(5)

(b)(6), (b)(7)c

Deputy Director  
Atlanta Field Office (GA, NC & SC)  
Detention and Removal Operations  
Department of Homeland Security  
U. S. Immigration and Customs Enforcement

Office: (404) 893- (b)(6), (b)(7)c

**From:** (b)(6), (b)(7)c

**Sent:** Wednesday, April 07, 2010 4:12 PM

**To:**

(b)(6), (b)(7)c

(b)(6), (b)(7)c

**Cc:**

**Subject:** Fw: Oversight of 287(g) Delegation of Authority Program

All,

See attached and provide comments to me for consolidation and submission by 4/12 please.

I have reviewed and have no comments as the proposed policy is clear and spells out responsibilities.

(b)(6), (b)(7)c

**From:** (b)(6), (b)(7)c

**To:**

(b)(6), (b)(7)c

(b)(6), (b)(7)c

W;  
ael  
ng,  
  
phy,  
S.;  
;

**Sent:** Wed Apr 07 09:34:41 2010

**Subject:** Oversight of 287(g) Delegation of Authority Program

**The following message is being sent on behalf of** (b)(6), (b)(7)c **Assistant Director, Information, Policy, and Communications Division:**

**To: Directive Points of Contact**

**Subject: Oversight of 287(g) Delegation of Authority Program**

The Policy Management Unit is circulating the attached draft directive titled "Field Oversight of 287(g) Delegation of Authority Program" for review and comment on behalf of DRO Policy. The purpose of the directive is to define ICE delegation of authority in the 287(g) program.

Please review the draft directive and use the attached Directive Comment Form to provide one consolidated response for your field office or Assistant Director's office. We are interested in your comments; however, comments are not required. If you do not provide comments, we will consider this to be your concurrence with the draft directive as written.

In addition, please ensure that your Field Office Director or Assistant Director is aware of this request.

**Please provide your response to** (b)(6), (b)(7)c **@** [dhs.gov](mailto:(b)(6), (b)(7)c@dhs.gov) **by Tuesday, April 13, 2010, at 2:00 p.m. If you have any questions, please contact** (b)(6), (b)(7)c **Directives Manager in the Policy Management Unit, by e-mail or at 202-732-** (b)(6), (b)(7)c

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#	Reference	Comment	Response
		(b)(5)	

#	Reference	Comment	Response



Pages 281 through 283 redacted for the following reasons:

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(b)(5)

---

**James M. Chaparro**  
**Director**  
**Office of Detention and Removal Operations**

**From:**  
**To:**  
**Cc:**

(b)(6), (b)(7)c

**Subject:** RE: Tasking-entry of all alien referrals from jails and prisons into ENFORCE; FW: Fiscal Year 2010 Criminal Alien Program Goals

**Date:** Wednesday, January 06, 2010 4:47:51 PM

**Attachments:** [CAP Fiscal Year 2010 Criminal Alien Program Goals.pdf](#)  
[Cases referred to DRO by GA County Jails 11-17-09 thru 12-31-09.xls](#)

Felicia: As discussed, our options appear limited: (1) Use significant amounts of overtime, or (2) Notify HQ DRO that we cannot comply with this new policy:

1. HQ CAP has confirmed that the new policy mandates that we now enter EVERY foreign-born individual into ENFORCE, when referred to us by a jail or prison.

2. We have a unique situation in GA: State law mandates that 100% of foreign-born individuals encountered in jails be referred to ICE for removal consideration.

3. Unknown to us, until we began preparations for the startup of Secure Communities, the State of Georgia implemented a new computerized system (as part of their (b)(7)e system) that automatically refers the name and identifying info of every foreign-born who is fingerprinted in a local jail, to the LESC as an IAQ. Until Secure Communities commenced, the LESC was not forwarding any of these IAQ/IARs back to DRO, so we were unaware of them. We are now receiving all of them.

4. This is both a blessing and a curse, in that we are now receiving an IAQ/IAR on 100% of inmates fingerprinted from all 159 county jails in GA – but we are totally overwhelmed by the amount of data received (8,148 referrals from 11/17/09 to 12/31/09), and there is no way we are able to review, let alone respond to, this number of cases (currently the IAQ does not even contain the local arrest charge, although the state is working on fixing this).

5. Even w/ massive amounts of scheduled weekend overtime, it will be difficult to meet the deadline for catching up entry of all these cases (1/31/10), and even after that we will have a continual need for OT to bring individuals in on weekends to do this data entry.

6. Shall I authorize the OT?

Georgia IAQ Report 11/17/09 - 12/31/09

**Total IAQs Received: 8148**

Appling	9
Atkinson	26
Bacon	7
Baker	3
Baldwin	19
Banks	10
Barrow	55
Bartow	46
Ben Hill	14
Berrien	9
Bibb County	13
Beckley	5
Brantley	1
Brooks	10
Bryan	10
Bulloch	18

Burke	12
Butts	26
Calhoun	0
Camden	17
Candler	2
Carroll	52
Catoosa	14
Charlton	2
Chatham	118
Chattahoochee	32
Chattooga	13
Cherokee	14
Clarke	154
Clay	0
Clayton	381
Clinch	0
Cobb	577
Coffee	35
Colquitt	38
Columbia	39
Cook	20
Cowetta	26
Crawford	0
Crisp	18
Dade	10
Dawson	2
Decatur	8
DeKalb	746
Dodge	5
Dooly	4
Dougherty	18
Douglas	68
Early	2
Echols	0
Effingham	2
Elbert	10
Emanuel	11
Evans	3
Fannin	4
Fayette	74
Floyd	115
Forsyth	101
Franklin	40
Fulton	1022
Gilmer	14
Glascok	2
Glynn	84
Gordon	37
Grady	27
Greene	4
Gwinnett	2538
Habersham	38
Hall	81
Hancock	0
Haralson	10
Harris	0
Hart	5

Heard	6
Henry	95
Houston	86
Irwin	0
Jackson	21
Jasper	7
Jeff Davis	34
Jefferson	1
Jenkins	0
Johnson	2
Jones	10
Lamar	6
Lanier	0
Laurens	10
Lee	5
Liberty	32
Lincoln	1
Long	2
Lowndes	53
Lumpkin	12
McDuffie	9
McIntosh	7
Macon	0
Madison	21
Marion	3
Meriweather	1
Miller	3
Mitchell	6
Monroe	5
Montgomery	2
Morgan	16
Murray	30
Muscogee	70
Newton	25
Oconee	13
Oglethorpe	0
Paulding	22
Peach	8
Pickens	7
Pierce	4
Pike	1
Polk	19
Pulaski	8
Putnam	9
Quitman	0
Rabun	18
Randolph	0
Richmond	37
Rockdale	111
Schley	0
Screven	1
Seminole	3
Spalding	7
Stephens	1
Stewart	2
Sumter	9
Talbot	0

Taliaferro	1
Tattnall	10
Taylor	6
Telfair	10
Terrell	4
Thomas	22
Tift	24
Toombs	19
Towns	1
Treutlen	1
Troup	50
Turner	14
Twiggs	5
Union	5
Upson	8
Walker	6
Walton	19
Ware	16
Warren	1
Washington	2
Wayne	12
Webster	3
Wheeler	6
White	2
Whitfield	93
Wilcox	1
Wilkes	2
Wilkinson	11
Worth	3

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**From:** (b)(6), (b)(7)c

**Sent:** Tuesday, January 05, 2010 9:21 PM

**To:**

(b)(6), (b)(7)c

(b)(6), (b)(7)c

**Cc:**

**Subject:** Tasking-entry of all alien referrals from jails and prisons into ENFORCE; FW: Fiscal Year 2010 Criminal Alien Program Goals

**Importance:** High

[Pass to all CAP/287g personnel.]

It has now been officially mandated that EVERY referral we receive from a local, state or federal jail/prison be entered into ENFORCE as an "Encounter." This includes referrals sent to us by any method. Some examples of referral methods:

- ~ a phone call
- ~ an e-mail
- ~ a fax
- ~ an IAQ/IAR
- ~ a stack of arrest records of suspected foreign-born individuals handed to one of our officers at a jail
- ~ a list of names of suspected foreign-born individuals given to one of our officers in person, by fax, e-mail, or whatever

I really need AFOD's and supervisors to step up their oversight on this and make sure that 100% of individuals referred to us as possible removable aliens in your area of responsibility are having at least minimally sufficient information entered into ENFORCE to generate an "Encounter." If you don't know how to do this, please seek out someone who does, or send your question/request up to me. We should be seeing hundreds of encounters being generated each week. We will be generating reports to track the number of encounters entered into ENFORCE by each officer, each sub-office/duty station, and each county jail or state/federal prison system, to track your progress.

ALSO: Any IAQ's, Duty Logs, or other records of referrals from earlier this FY that have not already been entered into ENFORCE must be entered by Jan 31, 2010, and a validation submitted to the (b)(6), (b)(7)c mailbox.

From HQ (edited and emphasis added):

"...Fields Offices will ensure the appropriate deployment of resources to meet FY10 program goals, which have been designed in an effort to identify **all** foreign-born nationals incarcerated in jails and prisons in the United States. ...FODs are to ensure that **all** individuals encountered as possible foreign-born nationals found incarcerated within Federal, state or local prisons/jails are documented in ENFORCE. FODs will ensure that all FY2010 encounters not previously entered into ENFORCE be inputted by January 31, 2010. Validation of completion should be sent to the (b)(6), (b)(7)c mailbox.

(b)(6), (b)(7)c  
Deputy Field Office Director  
Immigration and Customs Enforcement  
Detention and Removal Operations  
Atlanta Field Office (GA, NC, SC)  
404-898 (b)(6), (b)(7)c

**From:** (b)(6), (b)(7)c  
DRO P  
**Subject:** Fiscal Year 2010 Criminal Alien Program Goals

*The following message is sent on behalf of Thomas D. Homan, Assistant Director for Enforcement, and approved by Marc J. Moore, Assistant Director for Field Operations:*

**To: Field Office Directors and Deputy Field Office Directors**

**Subject: Fiscal Year 2010 Criminal Alien Program Goals**

Please see the attached memorandum entitled *Fiscal Year 2010 Criminal Alien Program Goals* signed by Acting Director David J. Venturella on January 5, 2010. This memorandum outlines the Office of Detention and Removal Operations (DRO) Fiscal Year 2010 (FY10) Criminal Alien Program (CAP) goals. Fields Offices will ensure the appropriate deployment of resources to meet FY10 program goals, which have been designed in an effort to identify all foreign-born nationals incarcerated in jails and prisons in the United States. The attached memorandum supersedes the "Manual CAP Reporting Requirements" in the memorandum dated December 21, 2007, entitled, *Reporting Guidance for the Criminal Alien Program (Follow-up to Director's July 11, 2006 Memorandum)* signed by Director John P. Torres. Therefore, field offices are no longer required to maintain the CAP manual report, however, during the transition it is highly recommended that each Field Office Director (FOD) continue

the manual report for the office's own benefit including for comparative analysis.

FODs are to ensure that all individuals encountered as possible foreign-born nationals found incarcerated within Federal, state or local prisons/jails are documented in ENFORCE. FODs will ensure that all FY2010 encounters not previously entered into ENFORCE be inputted by January 31, 2010. Validation of completion should be sent to the (b)(6), (b)(7)c mailbox.

This memorandum is effective immediately. Questions may be directed to Acting CAP Operations Chief (b)(6), (b)(7)c via email or at 202-732-(b)(6), (b)(7)c

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U.S. Immigration  
and Customs  
Enforcement

JAN 05 2010

MEMORANDUM FOR: Field Office Directors  
Deputy Field Office Directors  
FROM: *David J. Venturella*  
David J. Venturella  
Acting Director  
SUBJECT: Fiscal Year 2010 Criminal Alien Program Goals

Purpose

This memorandum outlines the Office of Detention and Removal Operations (DRO) Fiscal Year 2010 (FY10) Criminal Alien Program (CAP) program goals. Field Offices will ensure the appropriate deployment of resources to meet FY10 program goals, which have been designed in an effort to identify all foreign-born nationals incarcerated in jails and prisons in the United States. This supersedes the "Manual CAP Reporting Requirements" in the memorandum dated December 21, 2007, entitled, *Reporting Guidance for the Criminal Alien Program (Follow-up to Director's July 11, 2006 Memorandum)* signed by Director John P. Torres.

Background

CAP has the primary responsibility in U.S. Immigration and Customs Enforcement (ICE) to effectively identify and remove criminal aliens located within Federal, state, and local jails and prison facilities, regardless of the status of their convictions. In previous fiscal years, CAP set goals related to the number of Charging Documents Issued (CDIs), which was not reflective of the workload since CAP encounters more foreign-born nationals through screenings and interviews than it issues charging documents.

Utilizing resources provided by the Secure Communities initiative and the ongoing collaboration of delegated state and local law enforcement agencies acting under Section 287(g) of the Immigration and Nationality Act, CAP's goal will be to increase the number of aliens encountered in identified jail and prison facilities, and to capture those encounters in ENFORCE. For FY10, DRO will continue to screen all individuals booked into federal, state and local jails to identify those with foreign places of birth. Individuals identified as possible foreign-born nationals will be considered encounters; and will be documented in ENFORCE using the methods described in the CAP/Fugitive Operations reference guide, as directed by the memorandum signed on September 1, 2009 entitled, *Updated Directives for the Criminal Alien Program Case Identification in ENFORCE*. Encounters will include all documented or self-proclaimed foreign-born nationals, individuals claiming derived citizenship, naturalization or where citizenship is unknown.

In FY07, CAP developed a risk based assessment to prioritize the screening of foreign-born inmates incarcerated in jails and prisons located in the 24 DRO Field Offices' respective Areas of Responsibility (AORs). More than 4,000 jails and prisons have been assessed and placed into one of four distinct threshold levels. These four thresholds represent high to low risk, and encompass Federal, state and local correctional facilities. By increasing the number of facilities

who are currently designated limited coverage to 100 percent screening in FY10, CAP will also increase the number of encounters.

In an effort to increase deterrence and reduce future recidivism rates on violent criminal aliens, the Violent Criminal Alien Section (VCAS) Program was established with the goal of aggressively prosecuting recidivist criminal aliens. This aggressive approach will continue throughout FY10, with the purpose of continually increasing public safety and national security by removing violent and recidivist criminal aliens.

### Discussion

#### Strategic Goal 1- Increase the Number of Foreign-Born Nationals Encountered

The ultimate goal of CAP is to identify all foreign-born nationals located at all jails and prisons in the United States. This is accomplished by investigating, either through biographical record check and/or personal interviews, those aliens encountered at jails and prisons. An ICE agent/officer conducts a one-on-one interview with a foreign-born national to determine if that person is removable from the United States. A record check is the investigation of the status of a foreign-born national using the biographical data reported to other law enforcement agencies upon arrest. These checks are done through immigration or other electronic law enforcement databases. The continued deployment of interoperability will also increase the number of referrals to field offices.

As the deployment of interoperability increases, field offices must prioritize enforcement actions to ensure the identification and removal of the most dangerous criminal aliens from the United States. Field Offices must evaluate the use of detention space and other resources to ensure the most cost effective means to conduct its law enforcement operations without compromising mission integrity.

FY10 performance will be measured by the number of encounters in jails and prisons of individuals identified as foreign-born and captured in ENFORCE. Identifications are dependent upon the number of arrests and bookings made by federal, state and local law enforcement agencies. It is important that DRO continues to screen all individuals booked into, housed at, or released from correctional facilities, and detained or arrested by law enforcement agencies, to ensure that all foreign-born nationals are identified, investigated and processed if found amenable for removal.

Statistical reports will be electronically extracted from ENFORCE through the ICE Integrated Decision Support (IIDS) system. CAP will collaborate with field offices to ensure data quality and integrity. Each FOD will be provided with baseline data calculated from FY09.

#### Strategic Goal 2 – Increase the Number of Jails with Limited Coverage to 100 Percent Screening in Fiscal Year 2010 by 10 Percent Based on Criminal Alien Program Risk Assessment (CAPRA)

Based upon CAPRA, in FY09, there were 4,374 facilities across the country within DRO's AOR. Of those 4,374 facilities, DRO maintains 100 percent screening at all 1,281 adult federal and state correctional facilities, 585 (19 percent) of local jail facilities, and 7 Native American correctional institutions. DRO has limited coverage at the remaining 2,499 local jail facilities and 2 Native American facilities.

In FY10, CAP will continue to maintain 100 percent screening at all adult federal and state correctional facilities, and will strive to increase the number of facilities with limited coverage by 10 percent to ensure 100 percent screening. CAP will collaborate with field offices to

increase screening to 100 percent at those jails with limited coverage. The deployment of interoperability will be coordinated with Secure Communities and the field offices to assist in increasing screenings at facilities with limited coverage. Those field offices that currently have 100 percent screening at federal, state and local facilities will ensure that 100 percent screening is maintained.

Reports will be extracted from the CAPRA database on a monthly basis. CAP will collaborate with field offices to ensure data quality and integrity. Each FOD will receive their current CAPRA data.

Strategic Goal 3 – Increase the Number of Indictments/Information by 5 Percent over Fiscal Year 2009

The FY10 program goal represents a five percent increase of indictments/information from FY09. VCAS will receive greater attention in FY10; and CAP will collaborate with field offices to further identify best practices and to develop strategies to increase presentation rates for criminal prosecution. Through greater identification and tracking of aliens who have illegally re-entered the United States, CAP will seek to present for prosecution all applicable cases.

Statistics will be electronically extracted from TECS. CAP will collaborate with field offices to ensure data quality and integrity. Each FOD will receive FY09 data.

From:  
To:  
Cc:

(b)(6), (b)(7)c

Subject: Significant ERO Enforcement Actions Report - Atlanta - October 22, 2013  
Date: Tuesday, October 22, 2013 4:02:54 PM

---

ERO Operation Center,

Below is the requested Significant ERO Enforcement Actions Report from the Atlanta Field Office for October 22, 2013. Please contact me should you have any questions or concerns regarding this submission. Thank you.

**Significant ERO Enforcement Actions Report – Atlanta Field Office – October 22, 2013:**

❖ The Atlanta Field Office is submitting a negative report for today.

(b)(6), (b)(7)c

Immigration Enforcement Agent  
Executive Response Unit  
DHS/ICE/ERO  
180 Spring Street SW  
Atlanta, Georgia 30303  
(404) 668 (b)(6), (b)(7)c (Cell)  
(404) 893 (b)(6), (b)(7)c (Work)

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*This message is sent on behalf of David J. Venturella, Assistant Director for Field Operations:*

**To: Field Office Directors and Deputy Field Office Directors**

**Subject: Significant ERO Enforcement Actions**

ERO has been asked to provide information on significant ERO enforcement actions. This should be information that will take place in the next 24 hours or has taken place within the past 24 hours on:

- Fugitive Operations
- Removals
- Significant CAP or National Security arrests
- Joint Operations with other law enforcement agencies.

**Effective Monday March 14, 2011**, each field office is expected to provide a brief summary of the most significant events within their AORs that fall under one of the above categories. If field offices have multiple events, please provide a bullet on each.

**Please send your responses to the ERO Operation Center mailbox as found in the Microsoft Outlook Global Address List by the close of business every day excluding weekends and federal holidays.** In addition, in your daily submissions, please provide point of contact in your field office that HQ Field Operations can contact with questions on your submission.

Below are some examples of responses we would like to receive:

- ERO Seattle - Fugitive Operations Arrest – On March 12, 2011, the ERO Seattle will conduct a fugitive operation targeting 45 aliens with final orders of removal. Among the targets are aliens convicted of crimes such as murder, rape, robbery and assault. Included on the target list is (b)(6), (b)(7)c a citizen of Mexico who was convicted for the murder of her three year old son. **Media Note:** No media attention is expected as a result of this arrest.
- ERO Philadelphia – VCAS – On March 10, 2011, the Philadelphia VCAS team arrested (b)(6), (b)(7)c a citizen of Jamaica who illegally reentered the United States after being removed. (b)(6), (b)(7)c has been convicted of possession with intent to deliver a controlled substance. ERO Philadelphia will present (b)(6), (b)(7)c for prosecution in the U.S. District Court for the Eastern District of Pennsylvania for violation of Title 8 USC Section 1326, illegal reentry after deportation. **Media Note:** No media attention is expected as a result of this arrest.
- ERO Baltimore – Significant Removal – On March 14, 2011, ERO Baltimore plans to remove (b)(6), (b)(7)c a citizen of Pakistan with a final order of removal, to Pakistan aboard a commercial aircraft. (b)(7)e  
(b)(7)e, (b)(7)c  
(b)(7)e **Media Note:** No media attention is expected as a result of this removal.
- ERO Washington – Criminal Alien Program – On March 11, 2011, ERO Washington officers encountered (b)(6), (b)(7)c a citizen of Bolivia, at the Prince William County, VA, Sheriff’s Office after he was arrested for first degree murder. (b)(6), (b)(7)c is alleged to have shot his girlfriend during a domestic dispute. (b)(6), (b)(7)c is currently in the Prince William County Adult Detention Center in Manassas, VA awaiting trial. ERO Washington has lodged an immigration detainer. **Media Note:** This case has garnered significant media attention in the local area Local and HQ PAO are engaged.
- ERO El Paso – Joint Operation - ERO participated in operation Knockdown with Homeland Security Investigation and the US Marshals. The operation entailed interviewing of approximately 230 known or suspected Barrio Azteca gang members in the El Paso, TX metropolitan area to garner information regarding gang violence and drug activities in the Ciudad Juarez, Mexico region. The information will be utilized by task force members to disrupt Barrio Azteca illegal activities. To date Operation Knockdown has resulted in 54 criminal arrests and 25 administrative

arrests. **Media Note:** No media attention is expected as a result of this operation.

Should you have any questions regarding this task please contact Operations Office (b)(6), (b)(7)c  
(b)(6), (b)(7)c at 202-732-(b)(6), (b)(7)c or via email at (b)(6), (b)(7)c@dhs.gov.

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**From:** (b)(6), (b)(7)c  
**To:**  
**Subject:** Special Situation Aliens Notification  
**Date:** Thursday, October 17, 2013 8:25:29 AM

---

AFOD (b)(6), (b)(7)c

This email is to notify you that the Gaston County 287g program encountered three juveniles last night, all were brought in for Felony Common Law Robbery and are all claiming gang affiliation with the South Side Locos.

One of the Juveniles is claiming to have been born in New Mexico, his parents are bringing in proof to the jail, so we have no interest in him at this time.

The other two have the following information:

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Country/Citizenship: Mexico

Criminal History:

Common Law Robbery with \$50,000 secured bond

Immigration History:

Has an approved DACA application as of 10/1/2013 (Located in Claims)

If (b)(6), (b)(7)c is convicted of the current felony charge or if the charge is reduced to a misdemeanor and he is sentenced to 90 days or more, then he won't be eligible to keep his Approved DACA.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

A#: None

Country/Citizenship: Mexico

Criminal History:

Common Law Robbery \$50,000 secured bond

Immigration History:

No prior history

I am requesting to be allowed to Serve both subjects with a Notice to Appear and OREC them out to their parents once they pay their state bond or complete their state charges, whichever comes first.

Thank you

(b)(6), (b)(7)c  
**Supervisory Detention and Deportation Officer**  
**Charlotte, NC**  
**(704) 554-**(b)(6), (b)(7)c