



The Performance of 287(g) Agreements



Office of Inspector General

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Preface

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the department.

This report addresses the performance of 287(g) agreements between Immigration and Customs Enforcement and state and local law enforcement agencies. It is based on interviews with employees and officials of relevant agencies and institutions, direct observations, and a review of applicable documents.

The recommendations herein have been developed to the best knowledge available to our office, and have been discussed in draft with those responsible for implementation. We trust this report will result in more effective, efficient, and economical operations. We express our appreciation to all of those who contributed to the preparation of this report.


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Abbreviations

ACCESS	Agreements of Cooperation in Communities to Enhance Safety and Security
CIS	Central Index System
CLAIMS	Computer Linked Application Information Management System
DHS	Department of Homeland Security
DOJ	Department of Justice
DRO	Office of Detention and Removal Operations
ENFORCE	Enforcement Case Tracking System
GAO	Government Accountability Office
ICE	U.S. Immigration and Customs Enforcement
IDENT	Automated Biometric Identification System
IEA	immigration enforcement agent
IGSA	Inter-Governmental Service Agreement
IT	information technology
JEO	jail enforcement officer
LEA	law enforcement agency
LESC	Law Enforcement Services Center
MOA	Memorandum of Agreement
NFTS	National File Tracking System
NGO	nongovernmental organization
OCIO	Office of the Chief Information Officer
OI	Office of Investigations
OIG	Office of Inspector General
OPR	Office of Professional Responsibility
OSLC	Office of State and Local Coordination
REPAT	Removal of Eligible Parolees Accepted for Transfer
TFO	task force officer
U.S.C.	United States Code

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Executive Summary

The Department of Homeland Security's Immigration and Customs Enforcement delegates federal immigration enforcement authorities to state and local law enforcement agencies through its authority under section 287(g) of the *Immigration and Nationality Act*, as amended. The *Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009*, and accompanying House Report 110-862, require that we report on the performance of 287(g) agreements with state and local authorities.

287(g) agreements set general parameters for program activities and establish a process for Immigration and Customs Enforcement to supervise and manage program activity. Pursuant to Memoranda of Agreement with state and local law enforcement agencies, Immigration and Customs Enforcement permits designated officers to perform certain immigration enforcement functions.

We observed instances in which Immigration and Customs Enforcement and participating law enforcement agencies were not operating in compliance with the terms of the agreements. We also noted several areas in which Immigration and Customs Enforcement had not instituted controls to promote effective program operations and address related risks. Immigration and Customs Enforcement needs to (1) establish appropriate performance measures and targets to determine whether program results are aligned with program goals; (2) develop guidance for supervising 287(g) officers and activities; (3) enhance overall 287(g) program oversight; (4) strengthen the review and selection process for law enforcement agencies requesting to participate in the program; (5) establish data collection and reporting requirements to address civil rights and civil liberties concerns; (6) improve 287(g) training programs; (7) increase access to and accuracy of 287(g) program information provided to the public; and (8) standardize 287(g) officers' access to Department of Homeland Security information systems.

We are making 33 recommendations for Immigration and Customs Enforcement to strengthen management controls and improve its oversight of 287(g). Immigration and Customs Enforcement concurred with 32 of the recommendations.

Background

In September 1996, Congress authorized the executive branch to delegate immigration enforcement authorities to state and local government agencies. The *Illegal Immigration Reform and Immigrant Responsibility Act of 1996*¹ added section 287(g) to the *Immigration and Nationality Act*.² Under Section 287(g), the Secretary of Homeland Security is authorized to enter into agreements with state and local law enforcement agencies for the purpose of delegating immigration enforcement functions to select officers.³ The law requires that this delegation of immigration enforcement authorities be executed through formal, written agreements.

The federal government did not enter into any 287(g) agreements with state or local jurisdictions until 2002. Over the next 4 years, the Department of Homeland Security (DHS) delegated immigration enforcement authorities to six jurisdictions. After 2006, however, increased interest in interior immigration enforcement at the state and local levels and more dedicated funding for federal 287(g) program efforts brought substantial growth to the program. As of June 2009, DHS had 66 active agreements with state and local law enforcement agencies (LEA) in 23 states, and 833 active 287(g) officers.

The agreements are executed in the form of a Memorandum of Agreement (MOA) between the Assistant Secretary for Immigration and Customs Enforcement (ICE) and the participating agency's authorized representative. 287(g) agreements authorize participating officers to exercise a range of immigration enforcement functions that differ in terms of the program's model and function. The MOAs define the scope and limitations of the authority to be designated to the LEA.

MOAs identify 287(g) personnel eligibility standards, training requirements, and complaint-reporting procedures. The MOAs require state and local participants to enter program data into ICE information systems, and abide by federal civil rights statutes and regulations, including Department of Justice (DOJ) "Guidance Regarding the Use of Race by Federal Law Enforcement

¹ P.L. 104-208, sec. 133, Sept. 30, 1996.

² Codified at 8 U.S.C. 1357(g).

³ The text of 8 U.S.C. 1357(g) specifically names the Attorney General, rather than the Secretary of Homeland Security, as having this authority. However, this and other immigration enforcement functions of the Immigration and Naturalization Service were transferred to the Department of Homeland Security under the Homeland Security Act of 2002. (6 U.S.C. 251.)

Agencies.” The agreements permit LEAs to perform immigration enforcement activities only under ICE supervision, and allow ICE to suspend or revoke participating officers’ authority at any time.

MOAs also indicate which of two ICE program models the jurisdiction is to use. ICE authorizes participating jurisdictions to employ a jail enforcement model, task force model, or a combination of the two.

- *Jail Enforcement Model.* Under this model, 287(g) officers working in state and local detention facilities identify and process removable aliens who have been charged with or convicted of an offense. ICE refers to 287(g) officers operating in these settings as jail enforcement officers (JEO). JEOs generally work under the supervision of ICE Office of Detention and Removal Operations (DRO) personnel.
- *Task Force Model.* Under this model, 287(g) officers identify and process removable aliens in community settings. They do so during their regular duties as patrol officers, detectives, or criminal investigators; or in close coordination with ICE in task force settings. ICE refers to these 287(g) officers as task force officers (TFO). TFOs work under the supervision of ICE Office of Investigations (OI) personnel.

287(g) officers are authorized to question aliens as to their immigration status and removability, serve warrants for immigration violations, and issue immigration detainers for state and local detention facilities to hold aliens for a short time after completing their sentence. 287(g) officers prepare charging documents for ICE agents’ signature that are used in immigration courts, processing aliens for removal, and transporting aliens to ICE detention facilities. Many are also authorized to arrest aliens attempting to unlawfully enter the United States, as well as aliens already unlawfully present.

In July 2009, ICE released a new template for 287(g) agreements to replace existing agreements. ICE announced that only jurisdictions with newly signed agreements would be permitted to continue enforcing federal immigration laws, and provided 90 days for participating LEAs to sign a new agreement based on this template. As of October 2009, ICE had signed agreements with 61 LEAs based on the revised MOA template. ICE had agreed in principle with 6 other LEAs on the terms of the new MOA

template, but the MOAs for these LEAs were still pending final approval by a local governing body.⁴

As shown in table 1, funding for the 287(g) program has increased significantly on an annual basis since FY 2006, when \$5 million was allocated for ICE to facilitate agreements, to \$54.1 million in FY 2009.

Table 1. Allocated 287(g) Program Funding

Fiscal Year	Funding <i>in millions</i>	Percentage Change
2006	\$5.0	
2007	\$14.4	188%
2008	\$42.1	192%
2009	\$54.1	29%
2010	\$68.0	26%

Source: ICE Office of State and Local Coordination.

ICE does not provide direct funding to participating jurisdictions, although it does provide financing for officer supervision activities, training, and related expenses, as well as information technology (IT) equipment and services. Participating LEAs are responsible for salaries and benefits of their personnel performing immigration-related functions under the agreement. The LEAs are also responsible for travel costs, housing, and per diem associated with required training for participation in the program. ICE does, however, reimburse some jurisdictions for housing aliens in ICE custody at their facilities under separately negotiated Inter-Governmental Service Agreements.

Within DHS, management and oversight of the 287(g) program was initially provided by ICE OI. In December 2007, ICE transferred these responsibilities to the newly formed Office of State and Local Coordination (OSLC). In addition to setting program policy and providing oversight, OSLC oversees budget, asset management, and procurement services for the 287(g) program. OSLC coordinates with the ICE Office of Training and Development to design and deliver the 287(g) training program. OSLC also facilitates other ICE operations with state and local LEAs (see appendix D).

OSLC was initially staffed by eight detailed employees. OSLC was authorized to hire eight employees in FY 2009, and requested

⁴ Refer to appendix E for a list of participating jurisdictions.

funding for an additional 21 for FY 2010. As of June 2009, OSLC had five full-time employees, 12 detailed staff members, and nine contractors.

OI and DRO field offices provide day-to-day supervision and support for 287(g) officers. The ICE Office of the Chief Information Officer (OCIO) furnishes and installs IT equipment, and provides technical support for 287(g) officers' DHS system access needs.

Results of Review

Overview of the 287(g) Program

A primary objective of the 287(g) program is to enhance the safety and security of participating communities. Our review identified several aspects of the 287(g) program that are working to achieve program objectives, as well as challenges that may reduce its effectiveness.

Benefits of the 287(g) Program

DHS officials describe the 287(g) program as a force multiplier for ICE. According to ICE OI agents, 287(g) officers provide assistance such as following up on leads and performing investigative research and surveillance. DRO staff acknowledged the positive effect that 287(g) officers have had on their workload by identifying removable aliens, conducting interviews to determine alien status and removability, preparing charging documents, and entering alien information into ICE information systems. Assistance from 287(g) officers gives ICE greater flexibility in directing its immigration law enforcement resources and functions.

Immigration enforcement efforts under the 287(g) program account for a significant portion of nationwide ICE removal activity. 287(g) officers identified 33,831 aliens who were removed from the United States by ICE in FY 2008, which represents 9.5% of all ICE removals during that fiscal year. In addition, the cross-designation of state and local patrol officers, detectives, investigators, and correctional officers working in conjunction with ICE allows local and state officers more latitude to investigate violent crimes, human smuggling, gang and organized crime activity, sexually related offenses, narcotics smuggling, and money laundering.

Table 2. 287(g) Encounters and Removals

	2006	2007	2008	2009	Total
Individuals Identified for Removal	6,224	24,400	49,847	62,714	143,185
Fugitive Aliens (Absconders)	3	112	750	1,816	2,681
Previously Removed from US	482	3,547	6,433	7,952	18,414

Source: ICE Office of State and Local Coordination.

By using state and local LEA personnel to perform immigration enforcement functions, the federal government reduces its costs for these efforts. ICE is responsible for providing supervision, training, computer equipment, and its installation and support costs. Participating LEAs are responsible for all other expenses, including 287(g) officer salaries and benefits. Entry-level ICE special agents and immigration enforcement agents (IEA) cost approximately \$269,784 and \$137,666, respectively, during the first year of service.⁵ In contrast, participating 287(g) officers who perform similar functions cost ICE \$20,252 during their first year of service.⁶ As such, ICE has increased the number of officers participating in federal immigration enforcement efforts. As of July 2009, 833 active LEA officers were participating in the 287(g) program, which represents a 4% increase in the size of ICE's workforce

Challenges for the 287(g) Program

The most extensive immigration enforcement role for state and local law enforcement agencies occurs as part of the 287(g) program. Through the program, state and local LEAs assume federal immigration enforcement powers. As such, the 287(g) program often assumes a high profile in communities in which it operates, and is one of DHS' most visible and scrutinized programs at the state and local levels.

ICE has taken measures to address related challenges and improve overall program management in FY 2009. These include preparing a draft OSLC strategic plan to identify key program tools, processes, and stakeholders, and align goals and objectives with DHS goals; communicating its immigration enforcement priorities

⁵ Average first-year costs for ICE special agents and IEAs include salary, benefits, travel, recruitment, screening, training, office supplies and equipment, vehicles, weapons, operations and maintenance expenses, uniforms, and furniture.

⁶ Average first-year costs for 287(g) officers include training and training related expenses, as well as IT equipment, equipment installation, and support.

to 287(g) program sites; setting a three-tier priority framework for arresting and detaining aliens identified through the program; and, developing standardized 287(g) agreements with partner jurisdictions. These measures represent positive steps in establishing a more effective program; however, significant challenges in administering the 287(g) program continue to exist.

In delegating federal immigration enforcement authorities to state and local LEAs, ICE maintains responsibility for ensuring that local law enforcement officers function under the supervision of ICE officers. In addition, ICE must provide 287(g) officers with appropriate training on the complexities of immigration law and practice. The challenge for ICE is to balance its need for additional resources with efforts to ensure that these activities are conducted in accordance with the MOAs. In addition, ICE must ensure that its 287(g) efforts achieve a balance among immigration enforcement, local public safety priorities, and civil liberties.

ICE and LEAs Have Not Complied With All Terms of 287(g) Agreements

MOAs constitute the written agreement between ICE and the LEA to allow qualified personnel to perform certain functions of an immigration officer. However, 287(g) MOAs primarily consist of broad-ranging terms and conditions for ICE's delegation of immigration enforcement authorities, with a limited number of specific requirements that direct day-to-day 287(g) operations.

For areas of the MOA that provide specific guidance and requirements, we observed instances where 287(g) program practices were not in compliance with the MOA.

- Prior to July 2009, MOAs required ICE field offices and LEAs to establish steering committees to meet periodically to review and assess the immigration enforcement activities conducted by the participating personnel and to ensure compliance with MOAs. However, only one of the seven jurisdictions we visited had established a steering committee that met on a regular basis.
- MOAs indicate whether jurisdictions are authorized to perform immigration functions in community-based task force settings, jail enforcement settings, or both. The MOAs between ICE and four of the jurisdictions we visited indicated that 287(g) authority was to be used in a task force setting only; however, each of these jurisdictions had also used 287(g) authorities in jail settings.

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- MOAs indicate that ICE will train 287(g) officers on the terms and limitations of the MOA and on public outreach and complaint procedures. However, 287(g) officers informed us that ICE instructors have not consistently delivered training on these topics during their basic training course.

These three issues are addressed in more detail in our report, along with other areas in which ICE needs to provide increased guidance and direction to promote more effective and efficient 287(g) program operations.

287(g) Performance Measures Do Not Align With Program Objectives

Developing good performance measures is critical to ensure that programs are getting desired results. According to the Program Assessment Rating Tool used to achieve the goals of the *Government Performance and Results Act*, performance measurement indicates what a program is accomplishing and whether results are being achieved. It also provides managers with information on how resources and efforts should be allocated to ensure effectiveness and keep program partners focused on key program goals. Performance measures should be outcome oriented, relate to the overall program purpose, and have ambitious targets.

According to ICE's July 2009 MOA template, the purpose of collaborations between ICE and LEAs is to identify and process for removal criminal aliens who pose a threat to public safety or a danger to the community. ICE's primary performance measure for the 287(g) program is the number of aliens encountered by 287(g) officers. ICE also collects information on the number of aliens identified through the 287(g) program who are subsequently removed by ICE. However, with performance measures that do not focus on aliens who pose a threat to public safety or are a danger to the community, there is reduced assurance that the goal of the 287(g) program is being met.

ICE has developed a risk-based approach to ensure that program resources are allocated to identify and determine the immigration status of aliens arrested for crimes that pose the greatest risk to the public. To this end, ICE has identified categories of aliens that are a priority for arrest and detention, with the highest being Level 1 aliens. This category consists of those who have been convicted of or arrested for major drug offenses or violent offenses such as murder, manslaughter, rape, robbery, and kidnapping. Level 2 aliens are those who have been convicted of or arrested for minor drug offenses or property offenses such as burglary, larceny, fraud, and money laundering. Level 3 includes aliens who have

been convicted of or arrested for other offenses. 287(g) resources are to be prioritized according to these levels. However, although ICE has developed priorities for alien arrest and detention efforts, it has not established a process to ensure that the emphasis of 287(g) efforts is placed on aliens that fall within the highest priority level.

We obtained arrest information for a sample of 280 aliens identified through the 287(g) program at four program sites we visited. Based on the arresting offense, 263, or 94%, were within one of the three priority levels; however, only 26, or 9%, were within Level 1, and 122, or 44%, were within Level 2. These results do not show that 287(g) resources have been focused on aliens who pose the greatest risk to the public.

ICE performance measures do not account for task force officer investigations, prosecutions, or convictions. Information on task force officers' investigative work and subsequent criminal prosecutions is maintained in TECS, the system ICE uses to track its investigations. However, ICE has not established any TECS reporting requirements for the program or used TECS information in any 287(g) program performance measures.

With no specific target levels for arrest, detention, and removal priority levels, and with performance measures that do not account for all investigative work and criminal prosecutions, ICE cannot be assured that the 287(g) program is meeting its intended purpose, or that resources are being appropriately targeted toward aliens who pose the greatest risk to public safety and the community.

Recommendations

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #1: Establish a process to collect and maintain arrest, detention, and removal data for aliens in each priority level for use in determining the success of ICE's focus on aliens who pose the greatest risk to public safety and the community.

Recommendation #2: Develop procedures to ensure that 287(g) resources are allocated according to ICE's priority framework.

Recommendation #3: Establish and implement TECS data entry requirements that reflect investigative efforts and related prosecutions associated with the 287(g) program.

ICE Needs to Establish Guidance for Supervising 287(g) Officers and Activities

The Government Accountability Office's (GAO) "Standards for Internal Control in the Federal Government" emphasize the need for good human capital policies and practices, including proper supervision. 287(g) agreements specify that ICE personnel will supervise and direct immigration enforcement activities conducted by LEA officers. However, we observed inconsistencies in the level and type of supervision over 287(g) program officers and related activities in participating jurisdictions. This inconsistency could jeopardize the integrity of the 287(g) program and its ability to perform immigration enforcement activities appropriately.

Field Office Staffing Plans Need to Incorporate 287(g) Supervisory Responsibilities

ICE field offices are responsible for supervising and directing 287(g) program activities, as well as ongoing activities in other ICE-directed programs. ICE has developed field office staffing plans for DRO and OI that reflect desired supervisory staffing ratios. However, the number of 287(g) officers supervised is not considered in field office staffing templates.

ICE field office staffing templates establish a maximum employee-to-supervisor ratio of nine to one. The templates were developed for ICE supervisors to ensure adequate supervision and support of ICE employees. A similar staffing template that excludes administrative tasks should be designed to account for the added responsibilities that ICE field offices undertake in supervising 287(g) officers.

ICE supervisors with additional responsibility for 287(g) officers often maintained actual staffing levels in excess of staffing template recommendations. At one site we visited, an ICE supervisor was responsible for three ICE employees and nineteen 287(g) officers. At another location, an ICE supervisor was responsible for two ICE employees and eighty 287(g) officers.

In several locations, ICE supervisors are responsible for providing oversight for both 287(g) activities and other ICE programs. For example, in DRO field offices with the Criminal Alien Program or Secure Communities, many of the supervisors overseeing these programs also supervise 287(g) program activities as a collateral duty.

ICE managers in three field offices advised us that imbalances in supervisory staffing ratios can be attributed, in part, to 287(g) agreements being approved without field office requests for additional supervisory staff being filled.

ICE supervisors have frequently delegated day-to-day direction of 287(g) program activities to nonsupervisory ICE subordinates. At six of the seven sites we visited, we identified 287(g) officers who received guidance from nonsupervisory special agents and IEAs. These ICE agents said that they did not receive recognition, pay, or training for these additional duties.

287(g) officers advised us that nonsupervisory ICE personnel who provide day-to-day guidance did not have the technical knowledge to serve in this capacity. 287(g) officers indicated that they received contradictory guidance from different ICE personnel, and were not able to obtain definitive instructions. They explained that this situation has resulted in uncertainties about the quality of their work and has hampered their productivity.

ICE's approach to 287(g) supervisory staffing has not consistently resulted in effective program supervision. To ensure that 287(g) activities are carried out in accordance with the MOA and other applicable guidance, ICE needs to implement a structure that ensures sufficient supervision of all 287(g) officers and related immigration enforcement activities. This issue should be addressed prior to any expansion of the 287(g) program.

Recommendations

We recommend the Assistant Secretary for Immigrations and Customs Enforcement:

Recommendation #4: Establish a process to ensure effective supervision of 287(g) officers and immigration enforcement operations.

Recommendation #5: Develop controls to ensure that supervisory responsibilities for 287(g) supervisors are considered when determining staffing ratios in ICE field offices.

Recommendation #6: Ensure that 287(g) supervision is provided by authorized staff with the appropriate knowledge, skills, and abilities.

ICE Needs to Ensure Consistency in 287(g) Supervision

We identified a pattern of inconsistencies in ICE supervisory practices regarding (1) the frequency and type of contact between 287(g) officers and ICE agents, (2) ICE participation and oversight responsibilities in community-based federal immigration enforcement operations, and (3) feedback on the performance of 287(g) officers.

Communications Between ICE Supervisors and 287(g) Officers

Communications between ICE supervisors and 287(g) officers varied widely. We noted levels of communication between ICE supervisors and agents and 287(g) officers that ranged from daily interaction to no contact at all. At some locations, ICE supervisors and agents interact daily with 287(g) officers. At one location, however, ICE agents responsible for supervising the 287(g) program acknowledged that they had no direct contact with dozens of 287(g) officers within their jurisdiction.

ICE agents who are co-located with the 287(g) officers they supervise have frequent face-to-face contact. ICE agents who supervise 287(g) operations from offsite locations rely on telephonic and electronic communications to provide guidance to officers. ICE agents from one field office reported visiting a remote program site they are responsible for only once a month, and said that they focus on reviewing 287(g) officer data entries to determine whether additional guidance is needed.

Community-Based Immigration Enforcement Operations

Variations in supervisory approaches are also evident in ICE agents' participation in 287(g) community-based immigration enforcement operations. At some locations, ICE agents were present for all TFO activities that could result in an arrest. However, at other locations, ICE agents were rarely present when TFOs arrested suspected aliens under 287(g) authority.

In some locations, ICE supervisors required TFOs to prepare operational plans for field activities and submit them to ICE for review and approval prior to implementation. At another program site, ICE did not require TFOs to provide operational plans even for large-scale undertakings; however, LEA representatives at this location provided ICE with operational plans as a courtesy.

Because 287(g) officers also enforce state and local laws, ICE supervisors must decide when it is necessary to supervise their activities. For example, one LEA advised ICE that its crime sweep operations were predicated under state law. Therefore, ICE agents decided that they did not need to be present for these operations or approve related operational plans. However, our review of data on nine crime sweeps conducted by this LEA showed that more than half of the arrests during two sweeps were based strictly on federal immigration violations. In addition, more than half the arrests for all nine crime sweep operations resulted in federal immigration charges.

To date, ICE has not issued guidance clarifying field office responsibilities concerning their participation in LEA field operations or approval of operational plans for immigration enforcement activities.

Supervisory Feedback on 287(g) Officer Performance

ICE supervisory practices related to 287(g) officer performance feedback also varied among sites. ICE agents at some locations provided formal feedback for LEA supervisors to use in preparing overall performance appraisals for 287(g) officers. In other locations, ICE agents provided performance feedback to 287(g) officers' LEA supervisors informally. This feedback is almost always oral. At one site, ICE agents provided oral performance feedback directly to 287(g) officers, but not to their LEA supervisors.

In the absence of consistent supervision over immigration enforcement activities performed by 287(g) jurisdictions, there is no assurance that the program is achieving program goals and operating in accordance with the MOA and other guidance.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #7: Develop and implement 287(g) field supervision guidance that includes, at a minimum (1) the frequency and type of contact required between 287(g) officers and ICE supervisors; (2) the preparation, review, and approval of operational plans for community-based immigration enforcement activities; and (3) performance feedback requirements for 287(g) officers.

ICE Needs to Enhance 287(g) Program Oversight

According to MOAs in place at the time of our fieldwork, ICE could provide program oversight through several methods, including conducting assessments of current MOAs and establishing local steering committees that review and assess immigration enforcement activities conducted by local LEAs. However, ICE has not used these methods effectively to enhance oversight of 287(g) operations and activities. As a result, ICE has limited its ability to ensure that local jurisdictions are conducting 287(g) activities as intended.

A Comprehensive Review Process Is Needed to Assess Ongoing 287(g) Agreements

MOAs include language that allows either ICE or participating LEAs to terminate agreements at any time. However, ICE had not established a comprehensive process for assessing, modifying, and terminating current agreements.

The MOAs between ICE and four of the jurisdictions we visited indicated that 287(g) authority was to be used in a task force setting only. However, each of these jurisdictions had also used 287(g) authorities in jail settings for several years. In one of these locations, both ICE and LEA managers were aware of this discrepancy; however, ICE had not modified the MOA to reflect the program activity in effect, or required the LEA to amend its program to comply with the MOA. As of June 2009, ICE had terminated one agreement in response to a request from the participating LEA.

The new MOA template ICE issued in July 2009 includes a requirement for ICE and the participating LEAs to review their agreements after 3 years to determine the need for modification, extension, or termination. During our fieldwork, ICE began preparing a draft directive for conducting these reviews. The draft includes a process for OSLC to determine the cost-effectiveness of the program and whether it continues to be in the best interest of ICE. However, it does not include the specific types of information that ICE should consider as part of this process.

Key aspects related to an LEA's 287(g) operation that are not included in the draft directive for reviewing MOAs include (1) current or previous concerns expressed by field office staff or by other DHS offices with relevant information about a particular jurisdiction; (2) media attention or community concerns that contribute to adverse conclusions about the 287(g) program; (3)

lawsuits or complaints; (4) potential civil rights and civil liberties violations; and (5) ICE's ability to provide effective supervision and oversight. These areas should be assessed as situations warrant. Such reviews could occur outside the 3-year review cycle outlined in the MOA template.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #8: Establish and implement a comprehensive process for conducting periodic reviews, as well as reviews on an as-needed basis, to determine whether to modify, extend, or terminate 287(g) agreements. At a minimum, this process should include an assessment of (1) current or previous concerns expressed by field office staff; (2) media attention or community concerns that contribute to negative or inappropriate conclusions about the 287(g) program; (3) lawsuits or complaints; (4) potential civil rights and civil liberties violations; and (5) ICE's ability to provide effective supervision and oversight.

Steering Committees Have Not Been Used to Assess Immigration Enforcement Activities

Prior to July 2009, MOAs between ICE and 287(g) LEAs required a steering committee to review and assess immigration enforcement activities, with a focus on ensuring compliance with MOAs. However, few program sites have established steering committees. Only one of the seven jurisdictions we visited had a steering committee that met on a regular basis. ICE's Office of Professional Responsibility (OPR) identified only one active steering committee at eight other program sites in its reports of inspections conducted from May 2008 to March 2009.

At a minimum, committee membership was to include the heads of the LEA and the ICE field office that supervises participating officers. However, past MOAs did not specifically require participation from community stakeholders or experts to provide advice and guidance on the direction of the program. Several community and nongovernmental organization (NGO) representatives said that it would be valuable to have community perspectives represented in these forums, and that external stakeholder involvement would increase transparency and accountability.

The revised MOA template released in July 2009 eliminated the requirement for steering committees. ICE officials determined that there was no need for formal committee meetings since LEA and ICE representatives generally communicate on a regular basis to address program issues.

Steering committees served as the sole oversight bodies described in 287(g) agreements with a focus on ensuring compliance with the MOAs at the local level. Steering committees should not be narrowly viewed as a means to enhance ICE and LEA communications, but as a way to (1) improve program oversight and direction, (2) identify issues and concerns regarding immigration enforcement activities, (3) increase transparency, and (4) offer stakeholders opportunities to communicate community-level perspectives. By eliminating the requirement for steering committees and not fostering participation by community stakeholders, ICE reduces its ability to gain an independent perspective on 287(g) operations.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #9: Require 287(g) program sites to maintain steering committees with external stakeholders, with a focus on ensuring compliance with the MOA.

Suitability Reviews Have Not Been Performed Consistently

MOAs in effect at the time of our fieldwork required state and local law enforcement officers nominated for the 287(g) program to be able to qualify for appropriate federal security clearances. ICE procedures require that all 287(g) officers be vetted before they are authorized to perform immigration enforcement functions or provided access to DHS systems. However, ICE had not established a system to ensure that suitability reviews were conducted for all 287(g) officers.

OPR may determine that a 287(g) officer candidate is unsuitable based on an indication of misconduct or negligence in employment, criminal or dishonest conduct, or intentional false statements. Other findings that may warrant an unsuitable determination include deception or fraud, refusal to furnish testimony, alcohol abuse, use of illegal or controlled substances, knowing or willful engagement in acts designed to overthrow the

government, or any statutory or regulatory bar from accessing ICE systems.

From the initiation of the 287(g) program through 2007, ICE OI determined officers' suitability for immigration enforcement functions on an informal basis. ICE OI did not maintain records documenting the process or outcome of 287(g) officers' suitability reviews.

In May 2007, when ICE OPR assumed responsibility from OI for ensuring that suitability requirements were met, it was unable to confirm the suitability status of 287(g) officers who were active at that time. Therefore, an OPR representative reported to us that it vetted all 287(g) officers again as a precaution to ensure their suitability for performing federal immigration enforcement activities. However, OPR did not have documentation that showed it had vetted all 287(g) officers, even though ICE granted them 287(g) authorities and provided access to DHS information systems.

OSLC maintains records and monitors 287(g) officers' program and training status. We reviewed OSLC and OPR records to identify instances where suitability determinations had not been performed for current or former 287(g) officers. We compared OSLC training records to OPR records for 287(g) officers who had received positive suitability determinations, and found that OSLC records identified 57 officers for whom OPR had no record of a suitability review. Of these, nine were active 287(g) officers. In addition to these officers, OSLC records showed another officer as active, even though OPR had not completed the officer's suitability review.

OCIO maintains records on 287(g) officers' DHS information system access and activity. We compared OCIO records to OPR information to determine whether all 287(g) officers with access to DHS information systems had undergone suitability reviews. One 287(g) officer had active DHS accounts even though OPR had revoked his 287(g) officer status. Eight other 287(g) officers for whom OPR had not completed a suitability review had access to DHS systems. One of these 287(g) officers was actively using his account.

ICE cannot ensure that 287(g) officers meet the appropriate qualifications to perform immigration enforcement duties without effective controls to ensure that officers are properly vetted. ICE's current vetting practices expose DHS information systems to

increased risk of data integrity issues and inappropriate or unauthorized access.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #10: Establish a process to periodically cross-check OPR, OSLC, and OCIO records to confirm 287(g) officers' eligibility and suitability to exercise authorities granted under 287(g) MOAs.

Guidelines for Handling Complaints and Allegations Against 287(g) Officers Need to Be Developed

ICE field offices are responsible for monitoring all 287(g) officers under their supervision to determine whether they have engaged in conduct that would make them unsuitable to continue in a federal immigration enforcement capacity. To assist in this effort, the July 2009 MOA template requires LEAs to immediately notify ICE of any complaint or allegation filed against 287(g) personnel involving (1) violations of the MOA or (2) any actions that might result in employer discipline, a criminal investigation, or a civil lawsuit. In addition, it requires LEAs to report complaints received regarding non-287(g) personnel performing federal immigration functions. However, ICE OPR agents and LEA internal investigation representatives whom we interviewed were either not aware of this requirement or did not have a clear understanding of their respective roles in the process.

ICE can suspend or revoke an officer's 287(g) authority if the officer (1) performs immigration enforcement activities that are not within the scope of the MOA or (2) uses immigration enforcement authority in a way that could reflect negatively on ICE or create an appearance of impropriety or a conflict of interest. LEA internal investigations units are responsible for investigating related allegations and information and reporting them to ICE field offices and OPR. However, ICE has not provided guidance on how information about allegations, complaints, and other indications of misconduct should be reported, maintained, or used as part of the suitability determination process. In addition, information regarding complaints, allegations, or the results of LEA investigations is not used as part of the recertification process.

At the time of our fieldwork, ICE did not retain information regarding allegations and investigations of 287(g) personnel or non-287(g) personnel exercising federal immigration authorities in violation of MOAs. Such data should be maintained and used as part of a continuing process to ensure adequate oversight of officers performing immigration enforcement activities.

Recommendations

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #11: Establish a process to ensure that LEAs report to OPR any allegations or complaints against 287(g) officers and other LEA personnel alleged to have improperly performed immigration enforcement activities, as well as the results of any subsequent investigations.

Recommendation #12: Establish and implement procedures on how the results of complaints, allegations, and subsequent investigations against LEA personnel conducting immigration enforcement activities should be maintained and used as part of the suitability and recertification processes.

ICE Needs to Ensure Proper Guidance and Supervision for Variations Within the Jail Enforcement and Task Force Program Models

The 287(g) program incorporates both a jail enforcement and a task force program model. ICE has used these models as the basis for delegating specific authorities to participating officers and developing model-specific program requirements that incorporate qualification standards and supervision requirements.

Distinctions between these two program models are outlined in the revised MOA template released in July 2009. According to these revisions, TFOs are authorized to perform immigration functions that differ from those allowed for JEOs. TFOs are also subject to different selection and supervision requirements. These distinctions are appropriate because of the differences in operating environments, but do not take into consideration the wide variations that exist within each program model as part of daily field operations.

During our fieldwork, we noted operational differences within the same program model as implemented by various LEAs. However,

ICE guidance for each program model does not take into consideration the different levels of guidance or supervision that may be required to monitor immigration enforcement activities associated with each variation.

Jail Enforcement Model

During our site visits, we noted that jurisdictions operating under the jail enforcement model screen significantly different populations. For example, four jurisdictions screen only convicted criminals for immigration status and removability. The remaining jurisdictions screen the immigration status of all individuals detained in their facilities. These differences in jail model approaches may justify different operating protocols and requirements to address differences in risk.

Task Force Model

Task force model operations vary more widely than jail enforcement operations. Some task force programs are structured around a task force with an ICE-led hierarchy, with a specific criminal investigative focus. Other task force operations include 287(g) investigators directed by LEA managers with a primary focus on violations of state laws such as identity theft and identity fraud, for which access to immigration information is beneficial. Still other task force operations include 287(g) officers in patrol vehicles who use immigration authorities following traffic stops or domestic violence issues. Each of these operations is associated with different levels of vulnerability to civil rights or MOA violations that may require distinct approaches to supervision.

Based on the risks of civil rights violations or other actions not in compliance with the MOA, different jurisdictions' approaches to carrying out immigration enforcement activities may require different levels of supervision and guidance. To ensure the effectiveness of each task force operation, ICE needs to establish corresponding instructions and protocols and provide appropriate levels of supervision.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #13: Establish specific operating protocols and requirements for operational variances identified in task force and jail enforcement program models.

More Frequent Inspections of 287(g) Program Sites Could Improve Overall Program Operations

ICE OPR began conducting field inspections of 287(g) programs in 2008, and was appropriated funds for this purpose in FY 2009.⁷ OPR performs inspections to assess ICE field office effectiveness in supervising and supporting 287(g) programs, and ICE and LEA compliance with ICE policies and the terms of the MOAs.

As of September 2009, OPR had completed twenty-four 287(g) field inspections and 13 inspection reports. OPR inspections have identified program activities that were not in compliance with MOAs, and recommended appropriate corrective actions. These reports have also highlighted significant program issues and concerns, including credentialing and IT deficiencies, and inconsistencies in data entry and collection.

In March 2009, OSLC formalized its process for addressing OPR recommendations by instituting semiannual reporting on the progress of corrective actions until the recommendations are closed. Continuing management attention to OPR inspection results may help ensure that program activities are in compliance with the MOAs, and assist ICE in refining program activities and guidance.

At current staffing levels, OPR plans to inspect 287(g) program sites once every 3 to 4 years. Given the sensitive nature of the 287(g) program and OPR's success in identifying issues for management attention, ICE should consider inspecting program sites more frequently to provide increased oversight. A more aggressive inspection process may require a corresponding increase in inspection staffing levels.

⁷ See the Explanatory Statement associated with *Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009* (P.L. 110-329), Div. D, Title II, p. 636.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #14: Study the feasibility and appropriateness of increasing the frequency of OPR 287(g) inspections, and report findings to the OIG.

Application Review and Selection Process Needs to Be Enhanced

The current process for reviewing applications for 287(g) program participation does not include an appropriate level of emphasis on civil rights issues. In addition, data from ICE field offices responsible for supervising approved 287(g) programs are not always properly considered in the decision regarding a jurisdiction's approval for participation. Because of the sensitivity of civil rights issues and the need for appropriate supervision of 287(g) officers, ICE must ensure that civil liberties concerns and the ability to provide adequate supervision are included in the selection process.

Civil Rights and Civil Liberties Considerations Are Not Consistently Weighed in the 287(g) Application Review and Selection Process

One aspect of DHS' primary mission is to ensure that civil rights and civil liberties are not diminished by its efforts, activities and programs aimed at securing the homeland.⁸ In its draft strategic plan, OSLC states that it seeks to build trusting partnerships with communities to further enforcement of federal immigration laws. This can be achieved, in part, through mutual respect for and recognition of civil rights and civil liberties. Therefore, the potential effects of a 287(g) agreement on a community's civil rights and civil liberties should be part of the application process.

OSLC explained that a jurisdiction's civil rights and civil liberties history has been a consideration in past site selection efforts. However, an emphasis on civil rights and civil liberties was not formally included in the 287(g) application, review, and selection process, or in draft procedures for modifying, extending, or terminating existing MOAs. 287(g) applications do not include information concerning civil rights complaints, lawsuits, or consent decrees that applicant jurisdictions are subject to, or other information that may be useful in assessing the civil rights and civil

⁸ 6 U.S.C. 111 (b)(1)(G).

liberties standing of the applicant. In 2009, OSLC increased the number of ICE offices that participate in the selection process; however, none of these offices are responsible for assessing civil rights and civil liberties issues.

In a January 2009 report, GAO disclosed that more than half of the twenty-nine 287(g) LEAs it contacted during its audit reported that community members in their jurisdictions expressed concerns that the use of 287(g) authority would lead to racial profiling and intimidation by law enforcement officials.⁹ NGOs critical of the 287(g) program have charged that ICE entered into agreements with LEAs that have checkered civil rights records, and that by doing so, ICE has increased the likelihood of racial profiling and other civil rights violations.

Claims of civil rights violations have surfaced in connection with several LEAs participating in the program. Two LEAs currently enrolled in the program were defendants in past racial profiling lawsuits that they settled by agreeing to collect extensive data on their officers' contacts with the public during traffic stops, and adopt policies to protect the community against future racial profiling. Another jurisdiction is the subject of (1) an ongoing racial profiling lawsuit related to 287(g) program activities; (2) a lawsuit alleging physical abuse of a detained alien; and (3) a DOJ investigation into alleged discriminatory police practices, unconstitutional searches and seizures, and national origin discrimination. DHS is a defendant in a lawsuit regarding the allegedly improper detention and deportation of a U.S. citizen by a 287(g) officer from yet another participating LEA. A determination in these lawsuits has not been made.

Several 287(g) program observers have suggested that ICE should closely review jurisdictions with a history of racial profiling before allowing them to enter into 287(g) agreements. Some NGOs assert that 287(g) authority should be revoked from certain LEAs currently participating in the program on the basis of civil rights and civil liberties violations.

To address these issues, ICE needs to direct increased attention to the civil rights and civil liberties records of current and prospective 287(g) jurisdictions. We recognize the difficulties involved in assessing a jurisdiction's past performance in this regard and forecasting future vulnerability to civil rights abuses. Nevertheless,

⁹ GAO, *Immigration Enforcement — Better Controls Needed over Program Authorizing State and Local Enforcement of Federal Immigration Laws* (GAO-09-109), January 30, 2009, preface.

ICE must include consideration of civil rights and civil liberties factors in the site selection and MOA review processes.

Recommendations

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #15: Require 287(g) applicants to provide information about past and pending civil rights allegations, and incorporate a civil rights and civil liberties review as part of the documented 287(g) site selection and MOA review processes.

Recommendation #16: Include a representative on the advisory committee to provide insights into civil rights and civil liberties issues as part of the approval process.

Data from ICE Field Offices Need to Be Fully Evaluated During the 287(g) Application Review and Selection Process

Recently, ICE has taken steps to enhance its initial application review process for prospective 287(g) LEAs (see appendix C). ICE officials stated that 287(g) applicants are assessed to determine whether other programs and assistance offered under the ICE Agreements of Cooperation in Communities to Enhance Safety and Security (ACCESS) program better meet their needs.¹⁰

As of June 2009, ICE had approved 66 of 117 applications for participation in the 287(g) program.¹¹ As of July 2009, ICE had not approved or denied any 287(g) applications during FY 2009 pending the issuance of a new MOA template.

OSLC reports that it relies on OI and DRO field offices to help identify the best-fit ACCESS partnership options for interested jurisdictions. OSLC staff reported that ICE field offices expressed concerns about 69 LEA applications for 287(g) authority and recommended that these applications not be approved. ICE denied applications for 53 of these 69 applications, but approved the remaining 16 despite objections from the field units responsible for providing direct program supervision.

¹⁰ Refer to appendix D for a complete list of ICE ACCESS programs and services.

¹¹ The Immigration and Naturalization Service approved one application for a 287(g) program before ICE was established. As of July 2009, one agreement that ICE signed after approving a 287(g) application had since been terminated.

In several other cases, ICE field offices supported approving 287(g) applications only under certain conditions, such as an increase in staff to ensure adequate supervision of 287(g) officers. However, ICE approved some of these applications without satisfying these field office conditions. As a result, field offices did not have the staff that they deemed appropriate to provide sufficient support and supervision.

ICE cited a number of reasons for denying 287(g) applications, and sometimes indicated multiple reasons for denying individual applications. According to OSLC information, the need for more field staff for supervision factored into the decision to deny more than half of the 51 applications disapproved. ICE denied about a quarter of applications, in part, because of insufficient ICE funding for either 287(g) officer training or IT requirements. ICE denied other applications because it determined the jurisdiction had a limited need for the program or believed its needs could be met by other ICE programs and services. In other cases, ICE denied applications because of limitations in detention space to house aliens who could be identified through the prospective 287(g) program. Some jurisdictions reconsidered or withdrew their applications.

Because of the need to provide sufficient oversight to ensure that 287(g) officers properly carry out immigration enforcement activities, ICE needs to make certain that input from ICE field offices is fully considered and evaluated during the application review and selection process.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #17: Develop a process to ensure that information submitted from ICE field offices as part of the application review process is fully taken into consideration before a final decision is made. This recommendation should include provisional approvals that require resource considerations to ensure proper supervision and oversight.

ICE Needs to Establish 287(g) Data Collection and Reporting Requirements to Address Civil Rights Issues

GAO's "Standards for Internal Control in the Federal Government" recognize the need for program managers to have data to determine

whether they are meeting their agencies' goals. Although 287(g) MOAs include basic guidelines for data collection and reporting, they do not require ICE or LEAs to collect information that would assist in addressing allegations of civil rights violations within 287(g) programs.

To address concerns regarding arrests of individuals for minor offenses being used as a guise to initiate removal proceedings, DHS officials said that the MOA requires participating LEAs to pursue all criminal charges that originally caused an individual's arrest. However, ICE does not require LEAs to collect and report on the prosecutorial or judicial disposition of the initial arrests that led to aliens' subsequent immigration processing under the 287(g) program. This information could help to establish how local prosecutors and judges regarded an officer's original basis for arresting aliens. Without this type of information, ICE cannot be assured that law enforcement officers are not making inappropriate arrests to subject suspected aliens to vetting by 287(g) officers for possible removal.

In one facility that screens all individuals detained, an ICE supervisor described a situation in which a state highway patrol officer transported an accident victim to a participating county jail to determine the victim's immigration status. The ICE supervisor explained that the accident victim was not brought to the jail to be charged with an offense, but to have a 287(g) officer determine the victim's deportability. The victim was detained until a 287(g) officer could respond.

To determine the potential for inappropriate 287(g)-related arrests and detentions, we requested specific information on the prosecutorial disposition of arrests from the seven jurisdictions in our review. However, because ICE does not require participants to collect this information, only four of the seven jurisdictions were able to provide us with prosecutorial data. These jurisdictions provided data on 263 alien arrests for criminal charges. Our analysis showed that authorities initiated the prosecution of 260 of 263, or 99%, of the aliens arrested for criminal charges. While these data indicate that prosecutors have pursued charges for 287(g)-related arrests, it does not provide confirmation that civil rights violations have not occurred.

ICE does not collect other information that could assist in determining whether civil rights violations have occurred. Information that would be useful in assessing whether unlawful profiling has occurred include: (1) the basis for and circumstances surrounding TFO stops, searches, and arrests, and (2) information on the race and ethnicity of individuals stopped, searched, and arrested by TFOs.

ICE should consider requiring LEAs to maintain data regarding (1) the circumstances and basis for TFO contacts with the public, (2) the race and ethnicity of those contacted and arrested, and (3) the prosecutorial and judicial disposition of 287(g) arrests.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #18: Establish collection and reporting standards that provide objective data to increase monitoring of methods participating jurisdictions use in carrying out 287(g) functions, and their effect on civil liberties. Collection and reporting requirements could include (1) the circumstances and basis for TFO contacts with the public, (2) the race and ethnicity of those contacted, and (3) the prosecutorial and judicial disposition of 287(g) arrests.

287(g) Training Does Not Fully Prepare Officers for Immigration Enforcement Duties

GAO's "Standards for Internal Control in the Federal Government" emphasize management's commitment to competence. This guidance states that all personnel need to possess and maintain a level of competence that allows them to accomplish their assigned duties. It also states that management should identify knowledge and skills needed for jobs, and provide necessary training.

LEAs serving as 287(g) officers must maintain broad-based knowledge of their role and the constraints on methods of enforcement in a legal and institutional system that operates differently from local criminal justice systems. State and local enforcement of federal immigration law must account for local, state, and federal laws that govern the rights of community residents and the obligations of localities. Our analysis of the training provided to new 287(g) officers identified several areas that need to be enhanced to ensure that 287(g) officers have the skills to carry out their immigration enforcement functions effectively.

287(g) Basic Training Does Not Satisfy MOA Requirements

287(g) MOAs require participating officers to pass examinations equivalent to those given to ICE officers before they can use federal immigration enforcement authorities. To assess compliance with this requirement, we compared examinations administered to 287(g) officers with those given to ICE IEAs who

perform similar functions. Examinations given to 287(g) officers during basic training are comparable in length, complexity, and subject matter to those taken by entry-level IEAs, and require the same 70% passing score, with a single retest opportunity.

The MOAs require basic training on 10 subjects:

- Terms and limitations of the MOA
- Scope of immigration officer authority
- Relevant immigration law
- ICE Use of Force Policy
- Civil rights laws
- Department of Justice “Guidance Regarding the Use of Race by Federal Law Enforcement Agencies”
- Public outreach and complaint procedures
- Liability issues
- Cross-cultural issues
- Obligations under federal law and the Vienna Convention on Consular Relations to make proper notification upon the arrest or detention of a foreign national

For seven of the subjects, the course content and length are either comparable to or exceed related training provided to IEAs. However, the curriculum provides limited coverage of three topics: civil rights law; the terms and limitations of the MOA; and public outreach and complaint procedures.

Training on Civil Rights Law

New 287(g) officers receive a brief training block on civil rights law. The lecture covers the authorities and duties of law enforcement officers; search, seizures, and rights; the Fourth amendment; and, due process requirements for aliens and other persons encountered during immigration enforcement activities. In contrast, entry-level IEAs receive an additional 20 hours of instruction on the Fourth Amendment and its protections related to stops, searches, seizures, and arrests.

Some 287(g) jurisdictions require their officers to take annual courses on civil rights and civil liberties protections. Moreover, state and local LEAs require their sworn officers with arrest authority to attend and graduate from certified law enforcement academies that provide some instruction on civil rights law. There are no national requirements, however, on the length of instruction law enforcement academies are to provide in this area. Some law

enforcement academies devote as much as 24 hours of instruction on Fourth Amendment protections, while others set aside 4 hours of training for this area.

287(g) officers exercise their authorities in community settings and need a thorough understanding of Fourth Amendment protections, including when it is appropriate to consider race or national origin when making a stop or determining whether to question an individual. In some cases, TFOs have received instruction on Fourth Amendment protections in law enforcement academies. However, there are no national requirements regarding the length of instruction law enforcement academies are to provide on Fourth Amendment protections.

Training on Terms and Limitations of the MOA and Public Outreach and Complaint Procedures

The terms and limitations of the MOA and public outreach and complaint procedures are not sufficiently addressed in ICE's basic training course. The course schedule shows that these subjects are to be presented in 1-hour training modules. However, 287(g) officers informed us that, despite its inclusion in the course schedule, ICE instructors have not consistently delivered the training module. Officers in several locations advised us that they did not receive instruction on the MOA or complaint process as part of the basic training course, and were unfamiliar with both. In addition, 287(g) officers are not tested on their understanding of these topics.

Local immigration enforcement activities encompass complex laws in an evolving environment. As such, training is a critical factor in helping to ensure that (1) 287(g) officers exert immigration enforcement authorities in accordance with federal and local immigration laws, (2) exposure to civil rights violations is minimized, and (3) officers are familiar with the terms and limitations of the agreements under which they operate, as well as the process for reporting and addressing related complaints.

Recommendations

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #19: Determine whether the current timeframe for civil rights law training is adequate to achieve appropriate

coverage, and modify timeframes and coverage as needed to ensure that sufficient training is provided.

Recommendation #20: Ensure that 287(g) basic training includes coverage of MOAs, and public outreach and complaint procedures.

Hands-On Training in Immigration Systems and Processing Needs to Be Increased

287(g) officers need immigration processing knowledge and skills in order to perform federal immigration enforcement functions. However, ICE supervisors and 287(g) officers informed us that basic training does not adequately prepare them for the practical requirements of their work.

Processing an alien for removal requires broad-based knowledge of immigration forms, systems, and processing methods, including the following:

- Requesting, creating, and organizing Alien files (A-files), which represent the physical record of all immigration-related documents for noncitizens
- Interpreting documents in the files
- Navigating and operating immigration electronic information systems (i.e., Automated Biometric Identification System (IDENT) and Enforcement Case Tracking System (ENFORCE))
- Preparing alien processing forms, including the Record of Deportable Alien, Form I-213

The basic training program for 287(g) officers provides 29 hours of instruction on A-file review, IDENT and ENFORCE processing, and I-213 preparation. By contrast, new ICE officers performing immigration enforcement functions receive 41 hours of training on immigration processing.

Some 287(g) officers reported that they did not receive hands-on training on ENFORCE during basic training, and that training did not prepare them to process cases independently. One 287(g) officer commented that after basic training, he came away with zero knowledge of how to process a case. An ICE supervisor explained that after completing basic training, 287(g) officers had no idea of how to create or process A-files.

Several 287(g) officers reported that they do not process aliens in their custody because of insufficient confidence in their knowledge

of ENFORCE. Therefore, after taking an undocumented alien into custody, they request assistance from DRO for ENFORCE processing. Requiring ICE officers to perform this function reduces the effectiveness of 287(g) officers as a force multiplier.

At the end of our fieldwork, ICE initiated efforts to address reported immigration processing issues through refresher training on ENFORCE at specific locations on an as-needed basis. Since we observed a widespread need for increased immigration processing knowledge, a more methodical approach is warranted to ensure that all 287(g) officers are properly trained.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #21: Enhance the current 287(g) training program to provide comprehensive coverage of immigration systems and processing. At a minimum, this should include hands-on experience during the 287(g) basic training course, on-the-job training, and periodic refresher training.

Knowledge of Immigration Benefits and Protections Needs to Be Reinforced

To assess individuals' immigration status and removability properly, immigration officers must be familiar with (1) the asylum process, (2) immigration benefits, and (3) victim and witness protections. Accordingly, training in these areas is included in the 287(g) basic training objectives.

The 287(g) basic training course includes 2 hours of instruction on special status immigrants and 2 hours on victim and witness awareness. However, ICE does not instruct 287(g) officers on significant immigration benefits, such as the *Nicaraguan Adjustment and Central American Relief Act*¹² and the *American Baptist Churches v. Thornburg Stipulated Settlement Agreement*.¹³

Instructional design standards require the assessment of student retention of information associated with identified training objectives. However, as part of the four examinations administered during the 287(g) basic training course, only three

¹² P.L. 105-100, Title II (codified as amended in scattered sections of title 8 of the U.S.C.).

¹³ 760 F. Supp. 796 (N.D. Cal. Jan 31, 1991).

questions relate to victim and witness protections and asylum. No examination questions address the asylum process or immigration benefits.

287(g) officers at several program sites were not knowledgeable about the asylum process, immigration benefits, and victim and witness protections. An appropriate level of knowledge in these areas could minimize processing errors and reduce the risk of wrongful detention and deportation. ICE needs to take measures to increase competencies in these areas.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #22: Ensure that an appropriate level of coverage on immigration benefits, asylum, and victim and witness protections is included as part of the 287(g) basic training agenda.

287(g) Officers Did Not Consistently Complete Refresher Training

In 2007, ICE identified annual online refresher training modules for 287(g) officers to complete through its web-based Virtual University. Officers are required to complete eight 287(g) training modules, as well as three courses required for all ICE employees.¹⁴

While OSLC has directed that ICE field office staff ensure that 287(g) officers complete Virtual University refresher training annually, we identified inconsistencies in compliance with this directive. As of March 2009, 88% of active 287(g) officers who were vetted by ICE prior to FY 2008 had not completed all required refresher training. In addition, 76% of officers vetted before FY 2008 had not completed 287(g) training offered through Virtual University.

Several ICE program supervisors in field offices were not aware of annual refresher training requirements. ICE supervisors who manage 287(g) operations in five of the six jurisdictions we visited were not knowledgeable of the requirements. In addition, one ICE

¹⁴ 287(g) officers must complete the following courses to meet ICE refresher training requirements: Refresher Training Course Navigation, The Orantes Injunction, Consular Notification and Access, Board of Immigration Appeals Decisions, Revised DHS / U.S. Citizenship and Immigration Services Documents, Nonimmigrant Refresher Training, Electronic Sources of Information, Stop Trafficking Refresher Training, Information Assurance Awareness Training, Records Management, and Prevention of Sexual Harassment.

supervisor told us that he was unaware that Virtual University could be used for 287(g) training.

In response to this issue, OSLC plans to formalize its refresher training guidance, and has developed a draft ICE directive on annual recertification of 287(g) officers that was under review by ICE headquarters at the time of our fieldwork. The draft directive states that 287(g) officers must recertify annually by successfully completing select Virtual University courses. The draft directive places responsibility on ICE field offices to notify OSLC when officers fail to complete recertification courses. OSLC is to review Virtual University administrative records and issue revocation notices for officers who do not complete required training.

Because of the complexities of federal immigration law and its constantly changing environment, refresher training is critical in reinforcing immigration enforcement knowledge and providing legal and program updates. Therefore, ICE needs to increase its efforts to ensure that 287(g) officers maintain immigration skills and keep abreast of changes in immigration enforcement requirements.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #23: Establish and issue guidance to field office staff for 287(g) officer annual recertification training that emphasizes completion of online refresher training courses.

Recommendation #24: Designate field office responsibilities for monitoring and enforcing compliance with training guidance to include, at a minimum, issuing and enforcing revocation notices for 287(g) officers who do not complete required training.

The Use of Interpreters Is Inconsistent

To complete processing and removal actions, immigration officers may need to communicate with aliens in languages other than English. Accordingly, ICE requires new DRO officers to establish Spanish-language proficiency or successfully complete a 5-week Spanish Language Training Program. By contrast, 287(g) officers do not receive language training or an assessment to determine their language competency.

MOAs in effect during our fieldwork required that participating LEA personnel provide an opportunity for subjects with limited English language proficiency to request an interpreter. However, ICE has not provided specific guidance on the circumstances in which 287(g) officers should proactively seek interpreter services. Therefore, the use of interpreters varies across program sites and among 287(g) officers. For example, officers without specific language skills often rely on officers with such skills for assistance, or call a language line that provides interpretation services telephonically. However, we spoke with officers who said 287(g) officers with few or no foreign language skills have interviewed and processed non-English-speaking aliens without the aid of interpreters. One 287(g) officer said that he does not speak any Spanish, but used what is referred to as a “cheat sheet” of questions in Spanish to determine aliens’ removability during interviews. Another 287(g) officer admitted to being reluctant to speak Spanish due to his minimal grasp of the language, but served warrants and read non-English-speaking aliens their rights in Spanish.

The absence of detailed guidance for using interpreter services can increase processing errors, as well as the potential for aliens to either be misunderstood or to misinterpret information provided during processing. To address these vulnerabilities, ICE needs to develop and implement clear guidelines describing the circumstances under which 287(g) officers should use interpreter support. These guidelines should also encompass foreign language skills assessments.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #25: Develop and implement clear guidelines for using interpreter support to assist with immigration duties and responsibilities.

ICE Needs to Increase the Availability and Accuracy of 287(g) Program Information

In a January 2009 memorandum to the heads of executive branch agencies, the President committed to disclose information rapidly in forms that the public can readily find and use. In addition, he wrote that executive departments and agencies should put information about their operations and decisions online and make it readily available to the

public.¹⁵ Consistent with these aims, one of OSLC’s primary goals is to build awareness and understanding of ICE ACCESS programs through communication and education of the media, NGOs, and the general public. However, at the time of our fieldwork, 287(g) information on the ICE public website consisted of brief fact sheets, testimony, and statements by ICE and DHS officials. In addition, information describing 287(g) operations to the public has included inaccuracies.

There Are Barriers to Obtaining 287(g) Program Information

The significant effect the 287(g) program can have on participants’ communities creates a need for community members to be well informed about the program. However, community and NGO representatives advised us that obtaining information about the 287(g) program is often a daunting task.

We obtained the following comments from community and NGO representatives regarding access to 287(g) information:

- ICE had restricted the release of basic program materials, including prior 287(g) MOAs.
- LEAs informed them that they could not respond to any information requests because ICE has blocked the release of program information.
- ICE has not been forthcoming with 287(g) program information, such as program policies and statistics, unless the NGOs filed a Freedom of Information Act request, which can be time-consuming and costly to process.

ICE managers in the field and LEA officials agreed that ICE does not do enough to disseminate program information to the public, and described ICE outreach efforts as minimal. Some LEAs reported difficulty obtaining program information from ICE.

ICE and NGO representatives explained how a local elected official frequently tied remarks about the 287(g) program to enforcement efforts executed under other authorities. They expressed concerns that members of the public may develop false impressions about the program as a result. One ICE manager in the area said that by not disseminating more information to the

¹⁵ President Barak Obama, Memorandum for the Heads of Executive Departments and Agencies, “Transparency and Open Government,” January 21, 2009. (http://www.whitehouse.gov/the_press_office/Transparency_and_Open_Government)

public, ICE had effectively ceded the role of primary spokesperson for the 287(g) program to this elected official, which was counterproductive because of the inflammatory nature of these statements.

ICE should increase efforts to ensure that the public is informed about 287(g) program and ongoing operations. One method to accomplish this is through improved access to and availability of program information. ICE's recent posting of the current 287(g) MOAs on its public website represents a positive step in this direction.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #26: Establish a process to provide the public and other stakeholders with comprehensive information about the 287(g) program and associated operations.

ICE Needs to Improve the Accuracy of 287(g) Program Information Provided to the Public

We identified ICE statements about the 287(g) program that did not reflect actual program activities. Such information reduces public awareness regarding 287(g) operations and activities.

ICE provided misleading information to the public in a September 2007 Fact Sheet. Information in this fact sheet included ICE's explanation that "The 287(g) program is not designed to allow state and local agencies to perform random street operations. It is not designed to impact issues such as excessive occupancy and day laborer activities."¹⁶ However, 287(g) officers have used their authorities during large-scale street operations with the aim of detaining individuals for minor offenses and violations of local ordinances.

The fact sheet also explained that the program was "designed to identify individuals for potential removal who pose a threat to public safety as a result of an arrest and/or conviction for state crimes." The fact sheet added that "Police can only use 287(g) authority when people are taken into custody as a result of

¹⁶ ICE, *ICE Fact Sheet: Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, September 6, 2007.

violating state or local criminal law.”¹⁷ However, 287(g) officers have apprehended aliens for federal immigration violations even when the aliens had no prior arrests on state or local charges.

ICE has provided an incomplete picture of activities carried out under the program’s task force model. According to ICE testimony, 287(g) officers working under the task force model are to assist ICE with long-term investigations and large-scale enforcement activities.¹⁸ However, we identified task force officers who focus exclusively on cases related to violations of state laws and had never assisted ICE with long-term investigations or large-scale enforcement activities.

The July 2009 MOA template for 287(g) activities indicates that task force officers are to be assigned to task force operations supported by ICE, and exercise their immigration-related authorities during criminal investigations involving aliens.¹⁹ However, task force officers are not always part of a task force, and many do not conduct criminal investigations. In several program sites, 287(g) task force officers operate in separate patrol vehicles and use their immigration authorities when they identify possible removable aliens while performing their regular LEA duties. These officers apply their 287(g) authorities following traffic stops or domestic violence calls, rather than in the furtherance of a specific ICE-directed criminal investigation, as indicated by program materials.

To foster an environment of transparency and trust, ICE must provide accurate information about the 287(g) program and related operations. Doing so would promote greater awareness and confidence as part of a comprehensive effort to broaden public knowledge of immigration enforcement programs and related efforts.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #27: Ensure the accuracy of information disseminated to the public about the goals of the 287(g) program,

¹⁷ Ibid.

¹⁸ Statement of William F. Riley, Acting OSLC Executive Director, before the U.S. House of Representatives Committee on Homeland Security, March 4, 2009, p. 3.

¹⁹ ICE, Revised MOA Template, July 2009, p. 19.

its various operations, and how immigration enforcement activities are carried out in the actual working environment.

Inadequate Information Is Available on the Complaint Process

A transparent complaint process is a way to ensure that a program is operating as intended. Since ICE has provided limited information about the 287(g) program, those who encounter 287(g) officers are not likely to recognize actions that violate the MOA. Moreover, because the only description of the complaint process in most jurisdictions is contained in the MOAs and because ICE and LEAs had not clearly disseminated them at the time of our fieldwork, members of the public are unaware of how to file a complaint. Furthermore, several past MOAs did not include details on how to file a complaint.

A related issue is an awareness of when it is appropriate to file a complaint regarding immigration enforcement activities under the 287(g) program. For example, those encountered by law enforcement officers cannot distinguish between 287(g) officers and other types of officers from the same jurisdiction. 287(g) officers do not wear distinctive clothing, and until recently, did not have credentials to validate their immigration enforcement authority. Because 287(g) officers do not regularly display credentials during operations or interviews to determine alien status and removability, many people remain unclear as to whether the officers they encounter are 287(g) certified. Therefore, there are uncertainties about filing a complaint in situations that may involve inappropriate LEA actions.

NGOs and community groups have received complaints attributed to the 287(g) program. Representatives advised us that it was difficult for individuals to pursue many of these complaints because of insufficient information about the complaint process. For example, at the time of our fieldwork 287(g) complaint reporting procedures were not available in ICE or LEA facilities where individuals affected by the 287(g) program are most likely to see them.

Recommendations

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #28: Publish 287(g)-complaint reporting procedures on ICE's public website, and ensure that these

procedures are posted in participating LEA buildings, and shared at community meetings.

Recommendation #29: Require 287(g) officers to identify themselves and display their credentials during federal immigration arrests, before initiating interviews regarding alien status and removability, and as part of other immigration processing activities.

287(g) Program Information and Training for LEA Supervisors Can Improve the Operating Environment

GAO's "Standards for Internal Control in the Federal Government" state that programs should foster a positive control environment. The 287(g) program's work environment is influenced by several factors outside of ICE, most notably by LEA officials within the participating jurisdiction. While ICE has the authority to supervise and direct officers in their performance of 287(g) program activities, LEA officials often control the operating environment in which 287(g) officers perform their immigration functions. LEA managers responsible for the overall supervision of officers participating in the 287(g) program can adversely affect program operations. As a result, ICE's ability to supervise and direct 287(g) efforts is influenced by its relationship with the LEA and 287(g) officers.

The following scenarios are examples of a LEA supervisors' influence on the success of 287(g) program activities:

- An LEA supervisor removed ICE computer equipment from 287(g) officers' workspace without explanation and locked it in a closet, limiting their ability to process aliens.
- At another program site, 287(g) personnel reported low morale because of infrequent recognition from their supervisors and managers for their federal immigration enforcement work.
- LEA supervisors who regarded the 287(g) program favorably indicated that additional information about the program would help them to support it more effectively.

Training for LEA supervisors varied from site to site. Some LEA supervisors attended 287(g) basic training and were certified to perform federal immigration enforcement functions, while others received no training. LEA supervisors who had completed the

287(g) training program explained that they were better able to address program needs as a result. LEA supervisors and managers who had not received 287(g) training advised us that they would be better able to support 287(g) efforts if they had received information about the program. Managers and supervisors at another location suggested that ICE develop an abbreviated 287(g) orientation program so they could better understand the 287(g) program, along with the duties and responsibilities of their staff who are participating in the program.

LEA and ICE officials indicated that ICE should consider providing LEA supervisor training as part of its efforts to improve operating conditions. At the time of our fieldwork, OSLC had begun coordinating with OTD to develop and deliver this type of training program. With training, LEA supervisors would be better positioned to provide an effective operating environment for 287(g) officers.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #30: Develop training and provide basic program information for LEA managers who maintain an oversight role for 287(g) officers in order to increase their understanding of the program and encourage their support of 287(g) activities.

287(g) Officers Need Consistent Access to DHS Information Systems

Immigration officers use several DHS information systems to enter and retrieve information when performing immigration enforcement functions. However, 287(g) officers maintain varying levels of access to DHS systems. Limitations in system access can inhibit 287(g) officers' ability to perform their full range of immigration activities.

287(g) officers use the following DHS systems to perform immigration enforcement functions:

- *Enforcement Case Tracking System (ENFORCE)* is the primary ICE administrative case management system. It includes biographical data on aliens and links to related biometric information, and it is used to identify and track

aliens during the detention and removal processes. 287(g) officers use ENFORCE to enter information about their encounters with aliens and to process aliens for removal from the United States. 287(g) officers also use ENFORCE to determine the disposition of past immigration hearings and removals.

- *Central Index System (CIS)* contains information on aliens' A-files, as well as basic biographical information on lawful permanent residents, naturalized citizens, and violators of immigration laws. 287(g) officers use the system to determine whether an alien has an existing A-file they need to request, or to create A-files for newly identified aliens.
- *National File Tracking System (NFTS)* tracks and accounts for A-files. 287(g) officers use the system to locate existing A-files for aliens they have encountered in order to request and update the A-files.
- *Computer Linked Application Information Management System (CLAIMS)* records and tracks the status of applications for immigration benefits and naturalization petitions. 287(g) officers use this information to determine the status of aliens' immigration benefits and naturalization applications, both of which are key factors in their removability.
- *TECS*, formerly known as the *Treasury Enforcement Communications System*, contains inspection data on travelers who have entered or attempted to enter the United States, as well as information on ICE criminal investigations. 287(g) officers use this system to determine whether aliens have entered the country illegally. Some TFOs also use TECS to record investigative case information and prepare reports on associated searches, arrests, and seizures.

As of March 2009, OSLC indicated that there were 805 active 287(g) officers. OCIO records showed that 92%, or 738, of these officers had access to the ENFORCE system. However, 561 officers (70%) had access to NFTS, 358 officers (44%) had access to CIS, 283 officers (35%) had access to CLAIMS, and 81 officers (10%) maintained system accounts in TECS.

287(g) officers at two locations said that different officers in their LEAs who perform the same immigration functions have access to different DHS systems or different parts of those systems. OCIO

data regarding 287(g) officers' system access indicate that even though a high percentage of officers had access to ENFORCE, fewer than a third had access to the ENFORCE Removals Module, which contains information on the final disposition of aliens' immigration hearings and removal proceedings. Within CIS, 287(g) officers had 22 different system access configurations, ranging from complete system access for 3 officers to access to approximately half of the system for 140 officers.

According to ICE officials, system access differences were an outgrowth of local program conditions. For example, at one location, ICE representatives advised that 287(g) officers did not need to use NFTS because ICE administrative staff located and requested A-files on their behalf. They further explained that the program aimed to limit 287(g) officer access to TECS because of concerns regarding the sensitivity of information. ICE representatives also said that in some cases, 287(g) officers' accounts have expired due to infrequent use. However, they were unable to explain other disparities in system access.

287(g) officers' access to DHS systems needs to be more uniform to enable ICE to better monitor the appropriateness of system access, and to ensure uniformity in their ability to input and retrieve immigration enforcement data.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #31: Establish and implement standard immigration system access profiles for 287(g) officers to ensure that officers have the access needed to perform immigration functions. These access profiles should be customized by program model to address the different functions that TFOs and JEOs perform.

Additional Issues Identified

During our review, we identified additional issues that, while not directly related to our objective of assessing ICE controls over 287(g) program implementation, we feel should be brought to management's attention.

ICE Has Used Unauthorized Detention Facilities to Detain Aliens Identified Through the 287(g) Program

ICE enters into Inter-Governmental Service Agreements (IGSA) with state and local jurisdictions to use their facilities to detain aliens in ICE custody. ICE compensates facilities with IGSA for the cost of detaining aliens at a prearranged rate. As of February 2009, 29 of the 66 jurisdictions participating in the 287(g) program had active IGSA with ICE for detaining aliens. In FYs 2008 and 2009, ICE paid 21 of these jurisdictions to detain aliens identified and processed by 287(g) officers.

Before entering into an IGSA, ICE conducts a physical inspection of the facility to ensure compliance with ICE detention standards, and examines the cost-effectiveness of the agreement. Thereafter, ICE conducts annual inspections of facilities authorized to house ICE detainees. These annual inspections assess the facilities' compliance with ICE custody standards to ensure safe, secure, and humane conditions for detainees.

According to data ICE provided us, it has detained aliens identified through the 287(g) program at three facilities that were not authorized by ICE, and therefore not subject to inspection. ICE compensated participating jurisdictions for detention services in these facilities, although the facilities were not authorized to house aliens in ICE custody. From October 2008 to early March 2009, ICE detained a daily average of 65 aliens identified through the 287(g) program in these facilities.

Detention facility inspections help ensure compliance with ICE detention standards. ICE needs to ensure that detention facilities used to house 287(g) detainees are approved and operating in accordance with applicable standards.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #32: Develop a process for performing regular checks to ensure that aliens identified through the 287(g) program are not held in unauthorized facilities while in ICE custody.

ICE Vehicles Have Been Underutilized

ICE purchased 74 vans in FYs 2006 and 2007, and distributed them to ICE field offices with 287(g) programs. ICE managers at these field offices planned to have 287(g) officers use the vans to transport aliens in ICE custody. However, ICE has not permitted 287(g) officers to drive the vans because of liability concerns regarding the use of ICE vehicles by outside employees. Additionally, ICE has not permitted 287(g) officers to use the vehicles because MOAs do not specifically allow for such use of government property. Therefore, several of the vans are not being used for any program purpose.

At one program site we visited, ICE field staff reported that they had received six vans for the 287(g) program; however, the vans could not be used since 287(g) officers are not ICE employees. An ICE manager at another field office told us that its two vans were generally idle because ICE policy prevented 287(g) officers from using them.

Since OSLC does not maintain information on the location of all vehicles that were delivered to ICE field offices for use in the 287(g) program, we were unable to assess the full extent of this problem. However, ICE's liability concerns are not clear to us. For purposes of determining liability and immunity from civil lawsuits, section 287(g)(8) assures that officers performing delegated duties shall be considered to be acting under the color of federal authority. We also note that section 287(g)(4) allows officers to use federal property as provided for in the MOAs. ICE should consider whether the administrative prohibition on vehicle use by 287(g) officers could be resolved by amending the MOAs as appropriate.

Recommendation

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #33: Evaluate ICE's position on the use of 287(g) vehicles by participating LEA officers to determine whether the vehicles can be used for the purpose for which they were purchased. If not, identify underutilized 287(g) vehicles, and take appropriate steps to use or dispose of those assets in accordance with applicable law.

Management Comments and OIG Analysis

We evaluated ICE's written comments and have made changes to the report where we deemed appropriate. Below is a summary of ICE's written responses to our recommendations and our analysis of the responses. A copy of ICE's response, in its entirety, appears in Appendix B.

Recommendation #1: Establish a process to collect and maintain arrest, detention, and removal data for aliens in each priority level for use in determining the success of ICE's focus on aliens who pose the greatest risk to public safety and the community.

ICE Response: ICE concurs with the recommendation. In June 2009, OSLC created a data quality review section to analyze data that 287(g) officers put into ICE data management systems. Particular attention will be paid to the numbers of criminal aliens identified and the nature of their offenses. In August 2009, the ICE OSLC mandated that 287(g) officers populate the Criminal Sensitivity Level fields in the Enforcement Case Tracking System. OSLC is currently working with ICE's Secure Communities and ICE's Detention and Removal Operations to refine the Criminal Sensitivity Levels to comply with ICE priorities.

OIG Evaluation: The recommendation is resolved and open pending our receipt and review of the revised Criminal Sensitivity Level fields to ensure compliance with ICE priorities. In addition, ICE needs to provide documentation of the data quality review process for analyzing data that 287(g) officers input to ICE systems as part of efforts to ensure a focus on aliens who pose the greatest risk to public safety and the community.

Recommendation #2: Develop procedures to ensure that 287(g) resources are allocated according to ICE's priority framework.

ICE Response: ICE concurs with the recommendation. OSLC is developing a strategic plan that directly aligns its goals and objectives, and those of the 287(g) program, with ICE and DHS priorities. OSLC has drafted a revised performance measure that will consider the nature of the criminal offense based on the severity of crime (Levels 1, 2, and 3). OSLC will establish a baseline and communicate targets for each severity level that will reflect prioritizations based on crime level, and average volume of encounters within each crime level.

OIG Evaluation: The recommendation is unresolved and open. ICE has established priorities for alien arrest and detention levels, but has not developed a process to ensure that 287(g) resources are prioritized according to these levels. This recommendation will remain unresolved and open pending ICE's development of such a process.

Recommendation #3: Establish and implement TECS data entry requirements that reflect investigative efforts and related prosecutions associated with the 287(g) program.

ICE Response: ICE concurs with the recommendation. This recommendation was completed on May 9, 2009, when the ICE Office of Investigations (OI) and DRO Directors signed a memorandum requiring OI and DRO offices to use the Treasury Enforcement Communication System program codes specific to the 287(g) program to capture administrative arrests, investigations, and prosecutions.

OIG Evaluation: The recommendation is unresolved and open. The May 9, 2009 memorandum, addresses initial data entry of a specific code to identify administrative arrests, investigations, and prosecutions. However, it does not include a data entry requirement for any updates to case information or the final judicial disposition.

Recommendation #4: Establish a process to ensure effective supervision of 287(g) officers and immigration enforcement operations.

ICE Response: ICE concurs with the recommendation. The OSLC and the ICE Office of Training and Development (OTD) are developing a Supervisory/Manager training curriculum for ICE personnel who oversee 287(g) officers in the field. The training will be operational in 2010. OSLC FY10 performance measures include headquarters oversight of the supervisory functions for 287(g). Additionally, OSLC is developing a comprehensive communications plan to facilitate widespread understanding of ICE supervisory roles. This communications plan will be ready for implementation by February 2010. OSLC will coordinate with OTD to ensure the plan is included in future supervisory training modules.

OIG Evaluation: The recommendation is resolved and open pending our receipt and review of the Supervisory/Manager

training curriculum and the communications plan, along with dates for implementation.

Recommendation #5: Develop controls to ensure that supervisory responsibilities for 287(g) supervisors are considered when determining staffing ratios in ICE field offices.

ICE Response: ICE concurs with the recommendation. ICE has received funding that will allow additional supervisory positions within the 287(g) program. ICE has distributed a total of 23 program manager positions to field offices to support existing 287(g) programs. These additional positions will help balance the ratio of supervisors. ICE will strive to continue expanding the number of supervisors as the 287(g) program matures.

OIG Evaluation: The recommendation is unresolved and open. The addition of 23 program manager positions to support existing 287(g) programs should help to reduce current staffing deficiencies. However, the ICE response does not address a process to ensure that responsibilities for 287(g) supervisors are consistently taken into consideration when determining staffing ratios for ICE field offices.

Recommendation #6: Ensure that 287(g) supervision is provided by authorized staff with the appropriate knowledge, skills, and abilities.

ICE Response: ICE concurs with the recommendation. The OSLC and OTD are developing a three day Supervisory/Manager training curriculum for ICE personnel who oversee 287(g) officers in the field. The training will cover all aspects and responsibilities of the MOA for ICE and our partners. All 287(g) ICE managers and supervisors will be required to complete the training, which will be operational in 2010.

OIG Evaluation: This recommendation is resolved and open pending our receipt and review of Supervisory/Manager training curriculum and verification of its use for all 287(g) ICE managers and supervisors.

Recommendation #7: Develop and implement 287(g) field supervision guidance that includes, at a minimum (1) the frequency and type of contact required between 287(g) officers and ICE supervisors; (2) the preparation, review, and approval of operational plans for community-based immigration enforcement activities; and (3) performance feedback requirements for 287(g) officers.

ICE Response: ICE concurs with the recommendation. OSLC is creating a communications plan to improve our interactions with community groups and all other stakeholders. The plan will delineate best communication practices and benefits, and ensure that stakeholders understand the 287(g) program's policies and initiatives. The communications plan is scheduled to be completed by February 2010 and will address the issues raised in the draft report. The communications strategy will incorporate a standard process for creating, reviewing, and delivering clear, consistent messages about the 287(g) program, including the goals and mission of the program, the benefits of the program, and recent success stories. The communications strategy will also include a stakeholder assessment to identify and assess stakeholders' needs and concerns.

OIG Evaluation: This recommendation is unresolved and open. The communication plan described in ICE's response should be effective in improving interactions with community groups and other stakeholders. However, the purpose of this recommendation is to resolve inconsistencies identified in ICE's supervision of 287(g) officers, which is not addressed in the proposed communications strategy.

Recommendation #8: Establish and implement a comprehensive process for conducting periodic reviews, as well as reviews on an as-needed basis, to determine whether to modify, extend, or terminate 287(g) agreements. At a minimum, this process should include an assessment of (1) current or previous concerns expressed by field office staff; (2) media attention or community concerns that contribute to negative or inappropriate conclusions about the 287(g) program; (3) lawsuits or complaints; (4) potential civil rights and civil liberties violations; and (5) ICE's ability to provide effective supervision and oversight.

ICE Response: ICE concurs with the recommendation. In FY 2008, the ICE Office of Professional Responsibility (OPR) established a 287(g) Review Program to review the terms of the MOAs. OSLC relies on OPR inspections reports to support decisions to modify, extend, or terminate 287(g) agreements. Further, OSLC communicates regularly with LEA counterparts, non-government organizations, and the DHS Office for Civil Rights and Civil Liberties to collect feedback about the 287(g) program. The formalization of communications to LEAs is included in the OSLC communications plan that will be completed in February 2010.

OIG Evaluation: This recommendation is unresolved and open. Inspections conducted by OPR are important to ensure LEAs' compliance with 287(g) agreements. However, the recommendation addresses other factors that should be incorporated into an overall strategy for determining whether current 287(g) agreements should be modified, extended, or terminated. Reference to those factors was not included in the ICE response.

Recommendation #9: Require 287(g) program sites to maintain steering committees with external stakeholders, with a focus on ensuring compliance with the MOA.

ICE Response: ICE concurs with the recommendation. OSLC is developing a communications plan which will incorporate all channels for delivering and receiving key communications, including steering committees. The communications strategy will be implemented in 2010, and will include a communications planning matrix to identify critical communications activities, when they need to be executed, and the point-of-contact responsible for executing the activities.

OIG Evaluation: This recommendation is unresolved and open. The communications strategy described in ICE's response does not address any specifics regarding steering committees, such as its membership, or specific duties and responsibilities in assessing immigration enforcement activities or compliance with the MOA.

Recommendation #10: Establish a process to periodically cross-check OPR, OSLC, and OCIO records to confirm 287(g) officers' eligibility and suitability to exercise authorities granted under 287(g) MOAs.

ICE Response: ICE concurs in part with our recommendation, noting that 287(g) officers are vetted only for suitability, and not for issuing federal security clearances. ICE has established a system to ensure that suitability reviews are conducted for all 287(g) officers. This process is addressed in the ICE policy established in October 2007 titled, "ICE Screening Criteria for Federal, State, or Local Law Enforcement, Correctional, and Mission Support Personnel Supporting ICE Programs." ICE acknowledges that, prior to the establishment of this policy, Office of Chief Information Officer, OPR, and OSLC rosters of 287(g) nominees and officers were not reconciled. To further ensure proper access is granted only to qualified participants, OSLC is

creating a policy entitled "Suspension and Revocation of a Designated Immigration Officer's 287(g) Authority." This policy will formalize the current cross checks performed by the OSLC training manager on active/inactive 287(g) officers listed with OPR.

OIG Evaluation: The recommendation is resolved and open. MOAs in effect during our field work included language that all candidates must be approved by ICE and qualify for federal security clearances. This was revised in the new MOAs, which require that all candidates be able to qualify for access to appropriate DHS and ICE databases. We will close this recommendation after receipt and review of the new policy, which formalizes cross checks performed on active and inactive 287(g) officers listed with OPR.

Recommendation #11: Establish a process to ensure that LEAs report to OPR any allegations or complaints against 287(g) officers and other LEA personnel alleged to have improperly performed immigration enforcement activities, as well as the results of any subsequent investigations.

ICE Response: ICE concurs with the recommendation. The new MOA requires participating agencies to inform ICE of all complaints regarding their 287(g) officers as well as the outcome of those complaints.

OIG Evaluation: Based on our review of the new MOA, we consider the recommendation resolved and closed.

Recommendation #12: Establish and implement procedures on how the results of complaints, allegations, and subsequent investigations against LEA personnel conducting immigration enforcement activities should be maintained and used as part of the suitability and recertification processes.

ICE Response: ICE concurs with the recommendation. OSLC has developed a comprehensive procedure through which it delivers the results of all OPR inspections and the respective areas for improvement to ICE field components for action. All inspection and administrative investigative findings from OPR, CRCL, and the OIG will be evaluated by OSLC management to determine the feasibility of all ICE 287(g) partnerships. The same process is used to document individual LEA officer derogatory findings.

OIG Evaluation: The recommendation is unresolved and open. The comprehensive procedure in ICE's response pertains to OPR inspection reports, which address overall 287(g) program compliance. However, the focus of this recommendation is the use of complaints, allegations, and investigations involving individual LEA personnel conducting immigration enforcement activities as part of the suitability and recertification process. Therefore, the procedures used for addressing OPR 287(g) reports are not responsive to this recommendation.

Recommendation #13: Establish specific operating protocols and requirements for operational variances identified in task force and jail enforcement program models.

ICE Response: ICE concurs with the recommendation which was completed in July 2009, with issuance of the new MOA template. Appendix D of the revised MOA was drafted to provide flexibility to address issues of local concern, including the variances cited in the OIG report. ICE can negotiate with jurisdictions before entering into 287(g) partnerships to address supervisory arrangements, state and local laws, and other specific needs or a particular agency.

OIG Evaluation: The recommendation is unresolved and open. As stated in the ICE response, Appendix D of the revised MOA provides flexibility to address any specific issue of concern. However, this flexibility does not provide assurances that variances in 287(g) operating protocols, such as those identified in our report will be consistently addressed. The new MOA requirement for operations plans to be submitted to an ICE agent for approval prior to being carried out is a positive step in providing guidance and consistency in 287(g) operations.

Recommendation #14: Study the feasibility and appropriateness of increasing the frequency of OPR 287(g) inspections, and report findings to the OIG.

ICE Response: ICE concurs with the recommendation. In 2009, ICE decided to increase the frequency of OPR 287(g) inspections. In FY 2010, OPR will ensure that 48 of 64 of the 287(g) programs, or 75%, will have been reviewed.

OIG Evaluation: The recommendation is unresolved and open. For FY 2010, ICE has determined how many OPR inspections will be completed. However, ICE has not provided any specific quantity or the details regarding a process for determining the

frequency for conducting OPR inspections beyond the current fiscal year to ensure continued management attention and oversight.

Recommendation #15: Require 287(g) applicants to provide information about past and pending civil rights allegations, and incorporate a civil rights and civil liberties review as part of the documented 287(g) site selection and MOA review processes.

ICE Response: ICE concurs with the recommendation which was completed in August 2009, when OSLC created a candidate questionnaire for all LEA officers attending 287(g) training. Additionally, DHS CRCL is now an active participant in the OSLC Internal Advisory Committee.

OIG Evaluation: This recommendation is unresolved and open. The candidate questionnaire developed for each proposed law enforcement officer candidate should be a useful tool in ICE's initial suitability assessment of 287(g) candidates. However, the focus of this recommendation is to address past performance of each LEA, including civil rights and civil liberties factors, as part of the site selection and MOA review processes, which is not a part of the candidate questionnaire.

Recommendation #16: Include a representative on the advisory committee to provide insights into civil rights and civil liberties issues as part of the approval process.

ICE Response: ICE concurs with the recommendation which was completed in October 2009, when DHS CRCL began participating in the OSLC Internal Advisory Committee.

OIG Evaluation: This recommendation is resolved and open pending our receipt and review of documentation that describes CRCL's role and responsibilities on the OSLC Internal Advisory Committee as it relates to the 287(g) application review and site selection process.

Recommendation #17: Develop a process to ensure that information submitted from ICE field offices as part of the application review process is fully taken into consideration before a final decision is made. This recommendation should include provisional approvals that require resource considerations to ensure proper supervision and oversight.

ICE Response: ICE concurs with the recommendation which was completed when OSLC instituted an Internal Advisory Committee in May 2009, to review and assess field office recommendations about pending 287(g) MOA applications. The Internal Advisory Committee is comprised of stakeholder representatives from ICE OI, DRO, OTD, SC, Office of Principle Legal Advisor (OPLA) Office of Chief Information Officer, Office of Congressional Relations, Office of Public Affairs, and DHS CRCL.

OIG Evaluation: This recommendation is resolved and open pending our receipt and review of documentation describing the process used by the OSLC Internal Advisory Committee to assess and review field office recommendations for pending 287(g) applications.

Recommendation #18: Establish collection and reporting standards that provide objective data to increase monitoring of methods participating jurisdictions use in carrying out 287(g) functions, and their effect on civil liberties. Collection and reporting requirements should include (1) the circumstances and basis for TFO contacts with the public, (2) the race and ethnicity of those contacted, and (3) the prosecutorial and judicial disposition of 287(g) arrests.

ICE Response: ICE does not concur, but is assessing the goal of this recommendation to ensure that ICE's 287(g) partners protect the civil liberties of every individual they encounter. OIG recommends the collection of data similar to a consent decree applicable to agencies that have engaged in racial profiling. This would require the collection of data beyond that which DHS and DOJ require of their own law enforcement officers and agencies. Although ICE strongly opposes racial profiling and adheres fully to all data collection requirements of federal law, the collection of this data raises logistical issues including whether a TFO would report all interactions, just interactions predicated solely on 287(g) authority, and how the TFO would distinguish in a meaningful way while performing his or her daily duties.

OIG Evaluation: This recommendation is unresolved and open pending our receipt and review of ICE's assessment of this recommendation, along with any subsequent plans to ensure that their 287(g) partners protect the civil liberties of individuals encountered.

Recommendation #19: Determine whether the current timeframe for civil rights law training is adequate to achieve appropriate

coverage, and modify timeframes and coverage as needed to ensure that sufficient training is provided.

ICE Response: ICE concurs with the recommendation. Starting in FY 2010, OSLC requires that 287(g) officers complete a "Use of Race" Virtual University course on an annual basis to retain their certification. The civil rights training in 287(g) addresses those provisions in the 4th, 5th, 6th, and 14th Amendments. The training covers criminal and administrative matters, and the federal statutes that address the deprivation of civil rights and the consequences for depriving people of their rights.

OIG Evaluation: This recommendation is unresolved and open. The focus of this recommendation is the effectiveness of the civil rights laws training curriculum, which we determined to be less comprehensive than similar training provided to ICE IEAs. While the "Use of Race" Virtual University course achieves the appropriate amount of coverage for a Use of Race training requirement, it can not be used as a supplement for achieving appropriate coverage in civil rights laws.

Recommendation #20: Ensure that 287(g) basic training includes coverage of MOAs, and public outreach and complaint procedures.

ICE Response: ICE concurs with the recommendation. On the first day of 287(g) officer training, OPLA instructors provide instruction on the terms of the MOA. Although ICE provides this training, ICE also expects that our 287(g) partners will ensure that their participating officers understand the responsibilities specified in the MOA. Public outreach principles are covered extensively in the "Cross Cultural Communication" block of the 287(g) training program. Instruction in "Complaint Procedures" was included in the training program, with additional instruction provided on complaint procedures and officer integrity.

OIG Evaluation: This recommendation is unresolved and open. Based on our review of training materials and course schedules, we determined that the MOA, public outreach, and complaint procedures are presented in 1-hour training modules. However, 287(g) officers informed us that ICE instructors have not consistently delivered these training modules, and they did not receive instruction on the MOA or complaint process. The purpose of this recommendation is for ICE to ensure that participants receive this training as specified in the course schedules.

Recommendation #21: Enhance the current 287(g) training program to provide comprehensive coverage of immigration systems and processing. At a minimum, this should include hands-on experience during the 287(g) basic training course, on-the-job training, and periodic refresher training.

ICE Response: ICE concurs with the recommendation. In February 2009, OSLC and OTD created a one week refresher training for active 287(g) officers who wanted additional immigration law and ICE systems training. In November 2009, the 287(g) basic training academy began using a state-of-the art simulated detainee processing and holding center. This allows 287(g) officers to experience various scenarios that occur when processing aliens. 287(g) students depart the ICE Academy with at least three practice folders to use as reference materials for future processing, and also use these folders in class during the "A-File Review" block of instruction. At any time, 287(g) officers can access the online distance learning refresher courses on the ICE Virtual University. Additionally, OSLC is creating an on the job training program manual for graduated officers with an expected delivery date of March 2010.

OIG Evaluation: This recommendation is resolved and open pending verification of a completed on the job training program manual for graduated officers.

Recommendation #22: Ensure that an appropriate level of coverage on immigration benefits, asylum, and victim and witness protections is included as part of the 287(g) basic training agenda.

ICE Response: ICE concurs with the recommendation. The "Special Status Aliens" and the "Victim Assistance" elements of the 287(g) basic training program include an overview of asylum, victim, and witness protections. Students receive instruction on the proper methods for assisting victims of human trafficking, abuse or other alien vulnerabilities. The court's decision in *American Baptist Churches v. Thornburg* is explained in detail and discussed in the "Alternate Orders of Removal" block of instruction. The assessment of a student's ability to meet the training objectives throughout the entire course is measured in multiple-choice exams and a series of 16 hours of hands-on, realistic, scenario-based practical exercises conducted in the final week of training.

OIG Evaluation: This recommendation is unresolved and open. As shown in the report, there was limited information in the 287(g) basic training program for significant immigration benefits. Of the

108 slides in the “Alternate Orders of Removal” block of instruction, we identified 3 that referred to Eligible American Baptist Churches class members. However, a definition or explanation of what qualified an alien to be a protected class member under this court decision was not provided.

Also, the multiple choice exam used to assess the students’ ability to meet the training objectives does not include any questions that address the asylum process or immigration benefits, and only three questions that relate to victim and witness protections and asylum.

Recommendation #23: Establish and issue guidance to field office staff for 287(g) officer annual recertification training that emphasizes completion of online refresher training courses.

ICE Response: ICE concurs with the recommendation. OSLC is drafting a policy entitled, "Annual Recertification of Designated Immigration Officers' Delegated Authority." This policy is currently pending final approval.

OIG Evaluation: This recommendation is resolved and open pending our receipt and review of the approved policy.

Recommendation #24: Designate field office responsibilities for monitoring and enforcing compliance with training guidance to include, at a minimum, issuing and enforcing revocation notices for 287(g) officers who do not complete required training.

ICE Response: ICE concurs with the recommendation. OSLC is in the process of drafting a policy titled "Suspension and Revocation of a Designated Immigration Officer's 287(g) Authority." This policy is currently pending final approval.

OIG Evaluation: This recommendation is resolved and open pending our receipt and review of the approved policy.

Recommendation #25: Develop and implement clear guidelines for using interpreter support to assist with immigration duties and responsibilities.

ICE Response: ICE concurs with the recommendation. ICE trains 287(g) students on the importance of using interpreters in immigration enforcement. The training addresses the use of interpreters during the "Sworn Statements" block of instruction. The 287(g) graduates are granted access to online independent study foreign language tutorials. In July 2009, OSLC provided

LEAs upon request, access to the "DHS Interpreters Service." In an October 29, 2009 email communication, ICE offered 287(g) state and local partner's interpretation resources in conjunction with the Department of Justice's (DOJ) Civil Rights Division. DOJ also provided additional materials to include a flip card with words in multiple languages to help identify what language a person speaks. A printed copy of the communication and additional materials were mailed separately in November 2009.

OIG Evaluation: This recommendation is unresolved and open. ICE's response describes interpreter resources available to 287(g) officers. However, our finding addresses a need for clear guidelines that illustrates circumstances under which 287(g) officers should actually use interpreter support.

Recommendation #26: Establish a process to provide the public and other stakeholders with comprehensive information about the 287(g) program and associated operations.

ICE Response: ICE concurs with the recommendation. OSLC is developing a communications plan to be implemented in February 2010. The communications plan will incorporate standard processes for creating, reviewing, and delivering clear, consistent messages about the 287(g) program, including the goals and mission of the program, the benefits of the program, and recent success stories. The communications plan will also include a stakeholder assessment to identify and assess their needs and concerns. OSLC has also made modification to its Internet site. Documentation is readily available to the public, which includes redacted copies of all existing MOAs.

OIG Evaluation: This recommendation is resolved and open pending our receipt and review of the communications plan as implemented. The communications plan should incorporate program areas identified in the ICE response, in addition to 287(g) program policies and related statistics on overall program operations.

Recommendation #27: Ensure the accuracy of information disseminated to the public about the goals of the 287(g) program, its various operations, and how immigration enforcement activities are carried out in the actual working environment.

ICE Response: ICE concurs with the recommendation. OSLC is developing a communications plan for implementation by February 2010. This will identify roles and responsibilities and

incorporate standard processes for creating and delivering clear, consistent messages about the 287(g) program. The processes will include appropriate steps for reviewing communications for accuracy to establish a layer of accountability. Additionally, the strategy will identify opportunities to strengthen internal communications to help ensure that stakeholders are receiving and disseminating accurate information about 287(g). The strategy will also expand outreach and interaction with key stakeholders, such as conferences and conference calls, to strengthen feedback and enable OSLC to identify and address misinformation about the program in a timely manner.

OIG Evaluation: This recommendation is resolved and open pending our receipt and review of the communications plan detailing a process for ensuring the accuracy of 287(g) information disseminated to the public.

Recommendation #28: Publish 287(g)-complaint reporting procedures on ICE's public website, and ensure that these procedures are posted in participating LEA buildings, and shared at community meetings.

ICE Response: ICE concurs with the recommendation. The 287(g) complaint reporting procedure was completed and posted on the ICE website in October 2009. Also, the complaint reporting process is described in Appendix B of the MOA.

OIG Evaluation: This recommendation is resolved and closed.

Recommendation #29: Require 287(g) officers to identify themselves and display their credentials during federal immigration arrests, before initiating interviews regarding alien status and removability, and as part of other immigration processing activities.

ICE Response: ICE concurs with the recommendation. At graduation, all candidates are awarded ICE 287(g) credentials. During the training program, all 287(g) students are advised that as the first mandatory step in any official encounter, they must identify themselves by name, agency, and title.

OIG Evaluation: This recommendation is unresolved and open. As part of our review of the 287(g) training program, we did not identify course material that provided advice regarding officer identification as a first step in any official encounter. In addition,

providing such information in the form of advice is not sufficient to satisfy the intent of this recommendation.

Recommendation #30: Develop training and provide basic program information for LEA managers who maintain an oversight role for 287(g) officers in order to increase their understanding of the program and encourage their support of 287(g) activities.

ICE Response: ICE concurs with the recommendation. OSLC and OTD are creating two new 287(g) training curriculums. The first training curriculum is for ICE supervisors, the second training curriculum targets LEA supervisors who have not attended the 287(g) basic training. These two curriculums are still in development.

OIG Evaluation: This recommendation is resolved and open pending our receipt and review of the new 287(g) training curriculum for LEA managers who have not attended 287(g) basic training.

Recommendation #31: Establish and implement standard immigration system access profiles for 287(g) officers to ensure that officers have the access needed to perform immigration functions. These access profiles should be customized by program model to address the different functions that TFOs and JEOs perform.

ICE Response: ICE concurs with the recommendation. In July 2009, OSLC assumed the responsibility of creating PICS accounts and ENFORCE profiles for all 287(g) students. This was in response to complaints from field supervisors that 287(g) officers were not given all of the accesses they needed to perform their mission.

OIG Evaluation: This recommendation is unresolved and open. ICE's response does not address 287(g) officers' access to all DHS systems identified in our report that are used to perform immigration enforcement functions.

Recommendation #32: Develop a process for performing regular checks to ensure that aliens identified through the 287(g) program are not held in unauthorized facilities while in ICE custody.

ICE Response: ICE concurs with the recommendation. OSLC will work with DRO to ensure that after persons identified through the 287(g) program are taken into ICE custody, only authorized

and inspected facilities are used to detain them. This process will be completed by May 2010.

OIG Evaluation: This recommendation is resolved and open pending our receipt and review of documentation of OSLC and DRO actions to ensure that only authorized and inspected facilities are used to detain persons identified through the 287(g) program.

Recommendation #33: Evaluate ICE's position on the use of 287(g) vehicles by participating LEA officers to determine whether the vehicles can be used for the purpose for which they were purchased. If not, identify underutilized 287(g) vehicles, and take appropriate steps to use or dispose of those assets in accordance with applicable law.

ICE Response: ICE concurs with the recommendation. In FY 2006 – FY 2008, the 287(g) delegation of authority program purchased 14 sedans and 75 transport vans for OI and DRO. OI and DRO placed these vehicles in Special Agent in Charge (SAC) and Field Office Director (FOD) offices that support the 287(g) program. In 2008, ICE field offices requested permission to transfer the vehicles to law enforcement agencies participating in the 287(g) program utilizing hold harmless agreements. OSLC conferred with OPLA who affirmed that hold harmless agreements are insufficient to permit 287(g) participants to use government property or assets except as specified in the MOA. OSLC informed the SAC and FOD offices that the vehicles could not be transferred to participating law enforcement agencies and that the SAC and FOD offices should continue to use the vehicles themselves to support the 287(g) program. These vehicles are still being utilized by ICE field offices to support the delegation of authority mission.

OSLC will re-evaluate its options, and ascertain how these vehicles are specifically being utilized. OSLC notes that the MOAs specify the property and assets the government will procure and provide to 287(g) participants. Initial counsel opinion has affirmed that hold harmless agreements are insufficient to permit 287(g) participants to use government property or assets except as specified in the MOA. If, following our re-evaluation, we determine that we are unable to legally permit the use, any government property or assets reserved for use by 287(g) participants and not specified by the MOAs will be returned to inventory and applied to other ICE mission areas.

OIG Evaluation: This recommendation is unresolved and open. We agree with ICE’s response to re-evaluate its approach, and ascertain how the vehicles are specifically being utilized. However, if ICE determines that the vehicles cannot be used for the purpose for which were purchased, ICE should seek legal counsel to ensure proper disposition of those vehicles, rather than automatically reallocating them for use in other ICE programs.

Appendix A

Purpose, Scope, and Methodology

The *Consolidated Appropriations Security, Disaster Assistance, and Continuing Appropriations Act of 2009* (Public Law 110-329), and attached House Report 110-862, require that we report on the performance of 287(g) agreements with state and local authorities. Pursuant to these requirements, we (1) assessed ICE controls over 287(g) program implementation, (2) determined whether the terms of 287(g) agreements had been violated by any parties, and (3) evaluated the effectiveness, efficiency, and economy of 287(g) operations.

We conducted our fieldwork, which included more than 90 interviews, from February to July 2009. We interviewed civil rights and immigration-rights NGO representatives from Arizona, California, Florida, Georgia, Maryland, Massachusetts, North Carolina, and Washington, DC, in addition to ICE and LEA senior officials and staff.

We consulted with DHS Office for Civil Rights and Civil Liberties officials on civil rights and civil liberties issues, and technical aspects of immigration law. Office for Civil Rights and Civil Liberties representatives accompanied us on three site visits and assisted with outreach efforts to NGOs.

We also accompanied an ICE OPR inspection team on a scheduled site visit, and independently observed program activities at six other 287(g) program jurisdictions. We reviewed 287(g) activities at the following jurisdictions:

- Benton County Sheriff's Office, Bentonville, AR
- City of Springdale Police Department, Springdale, AR
- Los Angeles County Sheriff's Office, Los Angeles, CA
- Maricopa County Sheriff's Office, Phoenix, AZ
- Prince William Manassas Adult Detention Center, Manassas, VA
- Rogers Police Department, Rogers, AR
- Washington County Sheriff's Office, Fayetteville, AR

We selected locations for our site visits from among program sites that had been operating for more than one year. Selection criteria included (1) the type of program model in place, (2) the number of LEA officers active in the program, (3) the number of 287(g) arrests and removals, (4) indications of possible violations based on reports of civil rights concerns in media reports, court cases,

Appendix A

Purpose, Scope, and Methodology

and complaints and investigations, and (5) whether other oversight entities had completed or planned site visits to these locations.

We performed extensive document review and analysis of 287(g) agreements, standard operating procedures, directives and policies, budgetary information, personnel security records, training materials, program data, and statistical information.

ICE renegotiated its agreements with participating jurisdictions based on an MOA template it released in July 2009. The new agreements contain requirements that were not included in prior agreements, and eliminate others that were. We did not assess compliance with the terms of these new agreements, as they were not in effect at the time of our fieldwork.

We conducted this review under the authority of the *Inspector General Act of 1978*, as amended, and according to the *Quality Standards for Inspections* issued by the Council of the Inspectors General on Integrity and Efficiency.

Appendix B Management Comments to the Draft Report

Office of the Assistant Secretary


U.S. Department of Homeland Security
500 12th Street, SW
Washington, DC 20024



U.S. Immigration
and Customs
Enforcement

December 9, 2009

MEMORANDUM FOR: Carlton I. Mann
Assistant Inspector General
Office of Inspector General

FROM: Robert F. De Antonio 
Director
Audit Liaison Office

SUBJECT: ICE Input to DHS Response to Office of Inspector General Draft
Report titled, "The Performance of 287(g) Agreements"

Thank you for providing U.S. Immigration and Customs Enforcement (ICE) with the opportunity to review and comment on the subject Office of Inspector General (OIG) Draft Report.

In the past year, ICE has improved the 287(g) program. Many of the improvements made were related directly to program controls and objectives and ensuring the effective and efficient operation of the 287(g) program.

In April 2009, OIG auditors attended the ICE 287(g) conference. Many of the on-going improvements to the 287(g) program identified at the conference have been included in this report. ICE appreciates their inclusion. ICE also provided a technical response with the statistical break out of the number of aliens identified, processed, and removed by the 287(g) program. ICE also provided some pertinent examples demonstrating the value of the 287(g) program for inclusion in the final report. ICE believes an evaluation of the program must consider the number of criminal aliens identified, processed and removed from our communities and the cost savings to the federal government from the program and using 287(g) officers as a force multiplier.

In our response, ICE identified many changes already underway to improve the program. ICE requests that 16 of the 33 OIG recommendations be considered resolved and closed based on the action ICE already has taken. ICE requests that 16 others be considered resolved and open pending receipt of additional documentation to be provided within 90 days from the release date of the final report. Finally, ICE does not concur with recommendation #18, but is carefully assessing the goal of this recommendation to ensure that ICE's 287(g) partners protect the civil liberties of every individual encountered.

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OIG Recommendation 1: "Establish a process to collect and maintain arrest, detention, and removal data for aliens in each priority level for use in determining the success of ICE's focus on aliens who pose the greatest risk to public safety and the community."

ICE Response to OIG Recommendation 1: ICE concurs. In June 2009, ICE's Office of State and Local Coordination (OSLC) created a data quality review section to analyze data that 287(g) officers put into ICE systems. The data quality review section ensures consistency in reporting requirements and analyzes arrest and removal data of aliens identified as part of the 287(g) program. ICE will review the results to evaluate each jurisdiction and determine if it operates consistent with the priorities set forth in the Memorandum of Agreement (MOA). Particular attention will be paid to the numbers of criminal aliens identified and the nature of their offenses.

Further, in August 2009 the ICE OSLC mandated that 287(g) officers populate the Criminal Sensitivity Level fields in the Enforcement Case Tracking System (ENFORCE). OSLC is currently working with ICE's Secure Communities (SC) and ICE's Detention and Removal Operations (DRO) to refine the Criminal Sensitivity Levels to comply with ICE priorities. A copy of the memorandum requiring population of the Criminal Sensitivity Level fields in ENFORCE is included for your information.

It is requested Recommendation 1 be considered resolved and closed.

OIG Recommendation 2: "Develop procedures to ensure that 287(g) resources are allocated according to ICE's priority framework."

ICE Response to OIG Recommendation 2: ICE concurs. OSLC is developing a strategic plan that directly aligns its goals and objectives, and those of the 287(g) program, with ICE and DHS priorities. Before ICE enters into a new 287(g) MOA, the justification is reviewed by the 287(g) Advisory Committee and ICE's Office of the Assistant Secretary (OAS) to ensure the expansion of the 287(g) program aligns with the priorities and objectives of ICE and DHS.

OSLC's capturing of statistical information assists ICE in measuring adherence to ICE priorities and also advances the mission priority of apprehending criminal aliens. Finally, ICE measures a program's effectiveness largely based upon the number and nature of aliens identified for removal by 287(g) officers. OSLC has drafted a revised performance measure that will consider the nature of the criminal offense based on the severity of crime (Levels 1, 2, and 3). OSLC will establish a baseline and communicate targets for each severity level. The targets will reflect both prioritizations based on crime level as well as average volume of encounters within each crime level.

It is requested Recommendation 2 be considered resolved and open pending OIG receipt of documentation.

OIG Recommendation 3: "Establish and implement TECS data entry requirements that reflect investigative efforts and related prosecutions associated with the 287(g) program."

ICE Response to OIG Recommendation 3: ICE concurs. The recommendation was completed on May 9, 2009, when the ICE Office of Investigations (OI) and DRO Directors signed a memorandum requiring OI and DRO offices to use the Treasury Enforcement Communication

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System (TECS) program codes specific to the 287(g) program. Program code YT0 will be used to capture administrative arrests and program code 6IL to capture investigations and prosecutions. A copy of the memorandum requiring use of the TECS program codes is included for your information.

It is requested Recommendation 3 be considered resolved and closed.

OIG Recommendation 4: "Establish a process to ensure effective supervision of 287(g) officers and immigration enforcement operations."

ICE Response to OIG Recommendation 4: ICE concurs. The OSLC and the ICE Office of Training and Development (OTD) are developing a Supervisory/Manager training curriculum for ICE personnel who oversee 287(g) officers in the field. ICE anticipates a three-day course that addresses all aspects and responsibilities of ICE and our partners under the MOA. The training will be operational in 2010. Further, OSLC FY10 performance measures include headquarters oversight of the supervisory functions for 287(g). OSLC program managers will be in continuous contact with the field personnel to ensure adequate and effective supervision of law enforcement agencies (LEA). Additionally, OSLC is developing a comprehensive communications plan to facilitate widespread understanding of ICE supervisory roles. This communications plan will be ready for implementation by February 2010. The plan will incorporate a standard processes for creating, reviewing and delivering clear, consistent messages about the 287(g) program, including the goals and mission of the program, the benefits of the program, and recent success stories. The communications plan will also include a stakeholder assessment to identify and assess its needs and concerns. This assessment will help OSLC appropriately tailor communications to address these needs and concerns. Additionally, the communications plan will identify and assess the appropriate channels (e.g., websites, conferences, newsletters, etc.) for informing stakeholders about 287(g) and expanding access to and availability of critical facts about the program and associated operations. OSLC will coordinate with OTD to ensure the plan is included in future supervisory training modules.

It is requested Recommendation 4 be considered resolved and open pending OIG receipt of additional documentation.

OIG Recommendation 5: "Develop controls to ensure that supervisory responsibilities for 287(g) supervisors are considered when determining staffing ratios in ICE field offices."

ICE Response to OIG Recommendation 5: ICE concurs. ICE strives to effectively balance the number of supervisors and employees. The addition of 287(g) officers in the field creates workforce challenges. ICE has received funding that will allow additional supervisory positions within the 287(g) program. ICE has distributed a total of 23 program manager positions to field offices to support existing 287(g) programs. These supervisors will provide daily oversight of 287(g) MOA within their area of responsibility, review administrative charging documents, respond to 287(g)-related taskings, meet with LEA partners and community stakeholders about 287(g) issues, serve as the primary point of contact between the field and HQ OSLC on 287(g) related issues, train LEAs about ICE's mission and priorities, and conduct ICE ACCESS outreach. ICE will deploy the additional supervisory positions (11 for OI and 12 for DRO) to field offices with multiple 287(g) agreements or the potential for multiple agreements. Using TECS and manual reporting mechanisms, OSLC will closely monitor the hours devoted to

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287(g) activities by ICE supervisory personnel. These additional positions will help balance the ration of supervisors. ICE will strive to continue expanding the number of supervisors as the 287(g) program matures.

It is requested Recommendation 5 be considered resolved and closed.

OIG Recommendation 6: "Ensure that 287(g) supervision is provided by authorized staff with the appropriate knowledge, skills, and abilities."

ICE Response to OIG Recommendation 6: ICE concurs. The OSLC and OTD are developing a Supervisory/Manager training curriculum for ICE personnel who oversee 287(g) officers in the field. The training is anticipated to be approximately three days. The training will cover all aspects and responsibilities of the MOA for ICE and our partners. All 287(g) ICE managers and supervisors will be required to complete the training, which will be operational in 2010.

It is requested Recommendation 6 be considered resolved and open pending OIG receipt of additional documentation.

OIG Recommendation 7: "Develop and implement 287(g) field supervision guidance that includes, at a minimum (1) the frequency and type of contact required between 287(g) officers and ICE supervisors; (2) the preparation, review, and approval of operational plans for community-based immigration enforcement activities; and (3) performance feedback requirements for 287(g) officers."

ICE Response to OIG Recommendation 7: ICE concurs. OSLC is creating a communications plan to improve our interactions with community groups and all of our stakeholders. The plan will help ICE determine how to communicate, when to communicate, and about what issues to communicate. The plan will outline best communication practices and benefits. The goal is to ensure stakeholders understand the 287(g) program's policies and initiatives. The communications plan is scheduled to be completed by February 2010 and will address the issues raised in the draft report. The communications strategy will incorporate a standard process for creating, reviewing, and delivering clear, consistent messages about the 287(g) program, including the goals and mission of the program, the benefits of the program, and recent success stories. The communications strategy will also include a stakeholder assessment to identify and assess stakeholders' needs and concerns.

It is requested Recommendation 7 be considered resolved and open pending OIG receipt of additional documentation.

OIG Recommendation 8: "Establish and implement a comprehensive process for conducting periodic reviews, as well as reviews on an as-needed basis, to determine whether to modify, extend, or terminate 287(g) agreements. At a minimum, this process should include an assessment of (1) current or previous concerns expressed by field office staff; (2) media attention or community concerns that contribute to negative or inappropriate conclusions about the 287(g) program; (3) lawsuits or complaints; (4) potential civil rights and civil liberties violations; and (5) ICE's ability to provide effective supervision and oversight."

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ICE Response to OIG Recommendation 8: ICE concurs. In FY 2008, the ICE Office of Professional Responsibility (OPR) established a 287(g) Review Program to review the terms of the MOAs. OSLC relies on OPR inspections reports to support decisions to modify, extend, or terminate 287(g) agreements. Further, OSLC communicates regularly with LEA counterparts, non-government organizations (NGOs), and the DHS Office for Civil Rights and Civil Liberties (CRCL) to collect feedback about the 287(g) program. The formalization of communications to LEAs is included in the OSLC communications plan that will be completed in February 2010.

It is requested Recommendation 8 be considered resolved and open pending OIG receipt of additional documentation.

OIG Recommendation 9: "Require 287(g) program sites to maintain steering committees with external stakeholders, with a focus on ensuring compliance with the MOA."

ICE Response to OIG Recommendation 9: ICE concurs. As previously noted, OSLC is developing a communications plan which will incorporate all channels for delivering and receiving key communications, including steering committees. The communications strategy will be implemented in 2010, and will include a communications planning matrix to identify critical communications activities, when they need to be executed, and the point-of-contact responsible for executing the activities.

It is requested Recommendation 9 be considered resolved and open pending OIG receipt of additional documentation.

OIG Recommendation 10: "Establish a process to periodically cross-check OPR, OSLC, and OCIO records to confirm 287(g) officers' eligibility and suitability to exercise authorities granted under 287(g) MOAs."

ICE Response to OIG Recommendation 10: ICE concurs, with one minor clarification. Presently, 287(g) officers are vetted only for suitability purposes, not for issuing federal security clearances as stated in this finding. ICE has established a system to ensure that suitability reviews are conducted for all 287(g) officers. This process is addressed in the ICE policy established in October 2007 titled "ICE Screening Criteria for Federal, State, or Local Law Enforcement, Correctional, and Mission Support Personnel Supporting ICE Programs." ICE acknowledges that, prior to the establishment of this policy, while attempting to meet the challenges associated with the exponential growth of the program, Office of Chief Information Officer, OPR, and OSLC rosters of 287(g) nominees and officers were not reconciled. This lack of reconciliation, which is described quantitatively in the second and third paragraphs of page 18, involves less than one percent of the 287(g) population vetted to date. Additionally, in May 2007, when OPR assumed the responsibility for vetting 287(g) candidates, inactive 287(g) officers were not vetted. This accounts for 48 inactive officers, or 84 percent, of the 57 noted on page 18 of the report. The remaining nine officers in OSLC records have been identified; three have been vetted for suitability, and a vetting request was forwarded to OPR for the remaining six. To further ensure proper access is granted only to qualified participants, OSLC is creating a policy titled "Suspension and Revocation of a Designated Immigration Officer's 287(g) Authority." This policy will formalize the current cross checks performed by the OSLC training manager on active/inactive 287(g) officers listed with OPR.

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It is requested Recommendation 10 be considered resolved and open pending OIG receipt of additional documentation.

OIG Recommendation 11: "Establish a process to ensure that LEAs report to OPR any allegations or complaints against 287(g) officers and other LEA personnel alleged to have improperly performed immigration enforcement activities, as well as the results of any subsequent investigations."

ICE Response to OIG Recommendation 11: ICE concurs. The recommendation was completed in July 2009 when the new MOA template was published. The MOA requires participating agencies to inform ICE of all complaints regarding their 287(g) officers as well as the outcome of those complaints. A copy of the new MOA template is included for your ready reference.

It is requested Recommendation 11 be considered resolved and closed.

OIG Recommendation 12: "Establish and implement procedures on how the results of complaints, allegations, and subsequent investigations against LEA personnel conducting immigration enforcement activities should be maintained and used as part of the suitability and recertification processes."

ICE Response to OIG Recommendation 12: ICE concurs. OSLC has developed a comprehensive procedure through which it delivers the results of all OPR inspections and the respective areas for improvement to ICE field components for action. All inspection and administrative investigative findings from OPR, CRCL, and the OIG will be evaluated thoroughly by OSLC management to best determine the feasibility of all ICE 287(g) partnerships, whether potential or current in status. The same process is used to document individual LEA officer derogatory findings. A copy of the procedure for addressing OPR 287(g) reports is included for your information.

It is requested Recommendation 12 be considered resolved and closed.

OIG Recommendation 13: "Establish specific operating protocols and requirements for operational variances identified in task force and jail enforcement program models."

ICE Response to OIG Recommendation 13: ICE concurs. The recommendation was completed in July 2009 with issuance of the new MOA template. Appendix D of the revised MOA was drafted to provide flexibility to address issues of local concern, including the variances cited in the OIG report. ICE can negotiate with jurisdictions before entering into 287(g) partnerships to address supervisory arrangements, state and local laws, and other specific needs of a particular agency.

It is requested Recommendation 13 be considered resolved and closed.

OIG Recommendation 14: "Study the feasibility and appropriateness of increasing the frequency of OPR 287(g) inspections, and report findings to the OIG."

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ICE Response to OIG Recommendation 14: ICE concurs. In 2009, ICE decided to increase the frequency of OPR 287(g) inspections. In FY10 OPR will ensure that 48 of 64 of the 287(g) programs, or 75 percent, will have been reviewed.

It is requested Recommendation 14 be considered resolved and open pending OIG receipt of additional documentation.

OIG Recommendation 15: "Require 287(g) applicants to provide information about past and pending civil rights allegations, and incorporate a civil rights and civil liberties review as part of the documented 287(g) site selection and MOA review process."

ICE Response to OIG Recommendation 15: ICE concurs. The recommendation was completed in August 2009 when OSLC created a "candidate questionnaire" for all LEA officers attending 287(g) training. Additionally, DHS CRCL is now an active participant in the OSLC Internal Advisory Committee. A copy of the questionnaire is included for your information.

It is requested Recommendation 15 be considered resolved and closed.

OIG Recommendation 16: "Include a representative on the advisory committee to provide insights into civil rights and civil liberties issues as part of the approval process."

ICE Response to OIG Recommendation 16: ICE concurs. The recommendation was completed in October 2009 when DHS CRCL began participating in the OSLC Internal Advisory Committee.

It is requested Recommendation 16 be considered resolved and closed.

OIG Recommendation 17: "Develop a process to ensure that information submitted from ICE field offices as part of the application review process is fully taken into consideration before a final decision is made. This recommendation should include provisional approvals that require resource considerations to ensure proper supervision and oversight."

ICE Response to OIG Recommendation 17: ICE concurs. The recommendation was completed when OSLC instituted an Internal Advisory Committee. The first meeting of the group occurred in May 2009. The OSLC Advisory Committee assesses and reviews field office recommendations about pending 287(g) MOA applications. The Advisory Committee is comprised of stakeholder representatives from ICE OI, DRO, OTD, SC, Office of Principle Legal Advisor (OPLA) Office of Chief Information Officer, Office of Congressional Relations, Office of Public Affairs, and DHS CRCL.

It is requested Recommendation 17 be considered resolved and closed.

OIG Recommendation 18: "Establish collection and reporting standards that provide objective data to increase monitoring of methods participating jurisdictions use in carrying out 287(g) functions, and their effect on civil liberties. Collection and reporting requirements should include, at a minimum (1) the circumstances and basis for TFO contacts with the public, (2) the race and ethnicity of those contacted, and (3) the prosecutorial and judicial disposition of 287(g) arrests."

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ICE Response to OIG Recommendation 18: ICE does not concur but is carefully assessing the goal of this recommendation to ensure that ICE's 287(g) partners protect the civil liberties of every individual they encounter. OIG recommends the collection of data that mirrors that of a consent decree applicable to agencies that are found to have engaged in racial profiling. This would require the collection of data beyond that which DHS and DOJ require of their own law enforcement officers and agencies. Although ICE strongly opposes racial profiling and adheres fully to all data collection requirements of federal law, the collection of this data raises logistical issues including whether a TFO would report all interactions, just interactions predicated solely on 287(g) authority, and how the TFO would distinguish in a meaningful way while performing his or her daily duties.

OIG Recommendation 19: "Determine whether the current timeframe for civil rights law training is adequate to achieve appropriate coverage, and modify timeframes and coverage as needed to ensure that sufficient training is provided."

ICE Response to OIG Recommendation 19: ICE concurs. The 287(g) basic training currently has five blocks of instruction related to civil rights and civil liberties. Starting in FY2010, OSLC requires that 287(g) officers complete a "Use of Race" Virtual University course on an annual basis to retain their certification. The civil rights training in 287(g) addresses those provisions in the 4th, 5th, 6th, and 14th Amendments. The training covers criminal and administrative matters, including an alien's right to counsel and the distinctions in that right. The training details the Federal statutes that address the deprivation of civil rights and the consequences for depriving people of their rights. This training supplements all of the law enforcement training that 287(g) officers already have to perform their daily jobs. The 287(g) training program supplements that training with information unique to immigration enforcement and applicable federal laws. The training was tailored to the target audience of already experienced law enforcement officers.

It is requested Recommendation 19 be considered resolved and closed.

OIG Recommendation 20: "Ensure that 287(g) basic training includes coverage of MOAs and public outreach and complaint procedures."

ICE Response to OIG Recommendation 20: ICE concurs. On the first day of training, OPLA instructors train participating officers about the terms of the MOA. Although ICE provides this training, ICE also expects that our 287(g) partners also ensure that their participating officers understand the responsibilities specified in the MOA. Public outreach principles are covered extensively in the "Cross Cultural Communication" block of instruction in the 287(g) training program. This information was provided to the OIG during the field work phase. Instruction in "Complaint Procedures" was included in the training program with additional instruction in complaint procedures and officer integrity. A copy of the complaint procedures module outlining the OIG's role in investigating allegations of misconduct by state and local 287(g) officers is included for your information.

It is requested Recommendation 20 be considered resolved and closed.

OIG Recommendation 21: "Enhance the current 287(g) training program to provide comprehensive coverage of immigration systems and processing. At a minimum, this should

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include hands-on experience during the 287(g) basic training course, on-the-job training, and periodic refresher training."

ICE Response to OIG Recommendation 21: ICE concurs. In February 2009, OSLC and OTD created a one week refresher training for active 287(g) officers who wanted additional Immigration law and ICE systems training. In November 2009, the 287(g) basic training academy began using a state-of-the art simulated detainee processing and holding center. This allows 287(g) officers to experience various scenarios that occur when processing aliens. Currently, 287(g) students receive extensive training in immigration systems and alien processing. 287(g) students depart the ICE Academy with at least three practice folders to use as reference materials for future processing. Students work with these folders in class during the "A-File Review" block of instruction. Students are also provided a number of job aids offering step-by-step guides to processing aliens in the field. At any time 287(g) officers can access the online distance learning refresher courses on the ICE Virtual University. Additionally, OSLC is creating an on the job training program manual for graduated officers with an expected delivery date of March 2010.

It is requested Recommendation 21 be considered resolved and open pending OIG receipt of additional documentation.

OIG Recommendation 22: "Ensure that an appropriate level of coverage on immigration benefits, asylum, and victim and witness protections is included as part of the 287(g) basic training agenda."

ICE Response to OIG Recommendation 22: ICE concurs. The "Special Status Aliens" and the "Victim Assistance" elements of the 287(g) basic training program include an overview of asylum and victim and witness protections. Students are instructed in the proper methods for assisting victims of human trafficking or abuse or other vulnerable aliens. The court's holding in *American Baptist Churches v. Thornburg* is specifically explained and discussed in the "Alternate Orders of Removal" block of instruction. The assessment of a student's ability to meet the training objectives throughout the entire course is measured in multiple-choice exams and a series of 16 hours of hands-on, realistic, scenario-based practical exercises conducted in the final week of training. This information was provided to the OIG during the field work phase.

It is requested Recommendation 22 be considered resolved and closed.

OIG Recommendation 23: "Establish and issue guidance to field office staff for 287(g) officer annual recertification training that emphasizes completion of online refresher training courses."

ICE Response to OIG Recommendation 23: ICE concurs. OSLC is in the process of drafting and disseminating a policy titled "Annual Recertification of Designated Immigration Officers' Delegated Authority." This policy is currently pending final approval.

It is requested Recommendation 23 be considered resolved and open pending OIG receipt of additional documentation.

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OIG Recommendation 24: "Designate field office responsibilities for monitoring and enforcing compliance with training guidance to include, at a minimum, issuing and enforcing revocation notices for 287(g) officers who do not complete required training."

ICE Response to OIG Recommendation 24: ICE concurs. OSLC is in the process of drafting and disseminating a policy titled "Suspension and Revocation of a Designated Immigration Officer's 287(g) Authority." This policy is currently pending final approval.

It is requested Recommendation 24 be considered resolved and open pending OIG receipt of additional documentation.

OIG Recommendation 25: "Develop and implement clear guidelines for using interpreter support to assist with immigration duties and responsibilities."

ICE Response to OIG Recommendation 25: ICE concurs. ICE trains 287(g) students about the importance of interpreters in immigration enforcement. The training addresses the use of interpreters during the "Sworn Statements" block of instruction. The 287(g) graduates are granted access to online independent study foreign language tutorials. This information was provided to the OIG during the field work phase. Further, in July 2009 OSLC provided LEAs upon request, access to the "DHS Interpreters Service." On October 29, 2009, in an email communication, ICE offered 287(g) state and local partner's interpretation resources in conjunction with the Department of Justice's (DOJ) Civil Rights Division. DOJ also provided additional materials to include a 'flip card' with words in multiple languages to help identify what language a person speaks. A hard copy of the communication and additional materials were mailed out separately in November 2009. All 287(g) partners were reminded of the legal obligations associated with accepting federal funds and the provision of language assistance.

It is requested Recommendation 25 be considered resolved and closed.

OIG Recommendation 26: "Establish a process to provide the public and other stakeholders with comprehensive information about the 287(g) program and associated operations."

ICE Response to OIG Recommendation 26: ICE concurs. OSLC is developing a communications plan to be implemented in February 2010. The communications plan will incorporate standard processes for creating, reviewing and delivering clear, consistent messages about the 287(g) program, including the goals and mission of the program, the benefits of the program, and recent success stories. The communications plan will also include a stakeholder assessment to identify and assess its needs and concerns. OSLC has also made modification to its internet site. Documentation is readily available to the public, which includes redacted copies of all existing MOAs.

It is requested Recommendation 26 be considered resolved and open pending OIG receipt of additional documentation.

OIG Recommendation 27: "Ensure the accuracy of information disseminated to the public about the goals of the 287(g) program, its various operations, and how immigration enforcement activities are carried out in the actual working environment."

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ICE Response to OIG Recommendation 27: ICE concurs. As previously noted, OSLC is developing a communications plan for implementation by February 2010. This will outline roles and responsibilities and incorporate standard processes for creating and delivering clear, consistent messages about the 287(g) program, such as newsletters with success stories or important statistics highlighting the benefits of the program. The processes will include appropriate steps for reviewing communications for accuracy to establish a layer of accountability. Additionally, the strategy will identify opportunities to strengthen internal communications to help ensure that internal stakeholders are receiving and disseminating accurate information about 287(g). The strategy will also expand outreach and interaction with key stakeholders, such as conferences, and conference calls, to strengthen feedback and enable OSLC to identify and address misinformation about the program in a timely manner.

It is requested Recommendation 27 be considered resolved and open pending OIG receipt of additional documentation.

OIG Recommendation 28: "Publish 287(g)-compliant reporting procedures on ICE's public website, and ensure that these procedures are posted in participating LEA buildings, and shared at community meetings."

ICE Response to OIG Recommendation 28: ICE concurs. The recommendation was completed on October 2009, when ICE posted, on the ICE.gov/OSLC website, information about how to file a 287(g) complaint. The process is the same found in Appendix B of the MOA.

It is requested Recommendation 28 be considered resolved and closed.

OIG Recommendation 29: "Require 287(g) officers to identify themselves and display their credentials during federal immigration arrests, before initiating interviews regarding alien status and removability, and as part of other immigration processing activities."

ICE Response to OIG Recommendation 29: ICE concurs. At graduation, all candidates are awarded ICE 287(g) credentials. During the training program, all 287(g) students are advised that, as the first mandatory step in any official encounter, they must identify themselves by name, agency, and title.

It is requested Recommendation 29 be considered resolved and closed.

OIG Recommendation 30: "Develop training and provide basic program information for LEA managers who maintain an oversight role for 287(g) officers in order to increase their understanding of the program and encourage their support of 287(g) activities."

ICE Response to OIG Recommendation 30: ICE concurs. As previously noted, the OSLC and OTD are creating two new 287(g) training curriculums. The first training is for ICE supervisors, the second training is for LEA supervisors who have not attended the 287(g) basic training. These two curriculums are still in development.

It is requested Recommendation 30 be considered resolved and open pending OIG receipt of additional documentation.

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OIG Recommendation 31: "Establish and implement standard immigration system access profiles for 287(g) officers to ensure that officers have the access needed to perform immigration functions. These access profiles should be customized by program model to address the different functions that task force officers and jail enforcement officers perform."

ICE Response to OIG Recommendation 31: ICE concurs. In July 2009 OSLC assumed the responsibility of creating PICS accounts and ENFORCE profiles for all 287(g) students. This was in response to complaints from field supervisors that 287(g) officers were not given all of the accesses they needed to perform their mission.

It is requested Recommendation 31 be considered resolved and closed.

OIG Recommendation 32: "Develop a process for performing regular checks to ensure that aliens identified through the 287(g) program are not held in unauthorized facilities while in ICE custody."

ICE Response to OIG Recommendation 32: ICE concurs. OSLC will work with DRO to ensure that after persons identified through the 287(g) program are taken into ICE custody, only authorized and inspected facilities are used to detain individuals. This process will be completed within 120 days.

It is requested Recommendation 32 be considered resolved and open pending OIG receipt of additional documentation.

OIG Recommendation 33: "Evaluate ICE's position on the use of 287(g) vehicles by participating LEA officers to determine whether the vehicles can be used for the purpose for which they were purchased. If not, identify underutilized 287(g) vehicles, and take appropriate steps to use or dispose of those assets in accordance with applicable law."

ICE Response to OIG Recommendation 33: ICE concurs.

In FY2006 – FY2008, the 287(g) delegation of authority program purchased 14 sedans and 75 transport vans for OI and DRO. OI and DRO then placed these vehicles in Special Agent in Charge (SAC) and Field Office Director (FOD) offices that support the 287(g) program. In 2008, ICE field offices requested permission to transfer the vehicles to law enforcement agencies participating in the 287(g) program utilizing "hold harmless" agreements. The Office of State and Local Coordination conferred with the Office of the Principal Legal Advisor (OPLA) who affirmed that "hold harmless" agreements are insufficient to permit 287(g) participants to use government property or assets except as specified in the MOA. OSLC informed the SAC and FOD offices that the vehicles could not be transferred to participating law enforcement agencies and that the SAC and FOD offices should continue to use the vehicles internally to support the 287(g) program. These vehicles are still being utilized by ICE field offices to support the delegation of authority mission.

OSLC will re-evaluate its options on this topic and ascertain how these vehicles are specifically being utilized. OSLC notes that the MOAs specify the property and assets the government will procure and provide to 287(g) participants. As stated above, initial counsel opinion has affirmed that "hold harmless" agreements are insufficient to permit 287(g) participants to use government

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property or assets except as specified in the MOA. If, following our re-evaluation, we determine that we are unable to legally permit the use; any government property or assets reserved for use by 287(g) participants and not specified by the MOAs will be returned to inventory and applied to other ICE mission areas.

It is requested that Recommendation 33 be considered resolved and open pending OIG receipt of additional documentation.

Should you have questions or concerns, please contact Megan Reedy, OIG portfolio manager at (202)732-4185 or by e-mail at Megan.Reedy@dhs.gov.

ICE's 287(g) Application and Approval Process

State and local law enforcement agencies interested in launching a 287(g) program are required to submit a request to ICE. ICE field offices conducted field surveys to ensure that 287(g) applicants were knowledgeable of the program requirements, and that requests for participation had been vetted by appropriate state and local government officials. These surveys also provided information on the potential number of illegal aliens who could be removed from the country through the program, and the level of program support needed from ICE field offices operating in the area. ICE headquarters officials considered ICE field office recommendations, along with survey results, in determining whether to pursue a 287(g) agreement with the requesting law enforcement agency.

ICE received five applications for participation in the 287(g) program from its establishment in 2003 until FY 2005.²⁰ During FYs 2006 and 2007, state and local interest in the 287(g) program increased, triggering a significant rise in applications. In FYs 2006 and 2007, ICE received 18 and 71 applications, respectively.

In response to expanding interest in the 287(g) program, ICE modified the application and selection process to incorporate other ICE program initiatives that might better address community needs. Under the ICE ACCESS program, state and local law enforcement agencies that apply for the 287(g) program can select from among 13 other ICE services and programs.²¹

State and local law enforcement agencies apply for participation in the 287(g) program via a formal request letter to ICE. Applicants are required to complete an ICE ACCESS needs assessment to provide specific information about the jurisdiction, including its detention facilities; involvement in ICE task forces; and frequency of encounters with fraudulent immigration documents, counterfeit goods, and foreign-born gang members operating in the area. ICE factors in this information to assess the jurisdiction's immigration enforcement challenges, and whether any other ICE ACCESS programs and services would be more appropriate in addressing its needs.

²⁰ Prior to ICE's establishment, the former Immigration and Naturalization Service received and considered 287(g) applications.

²¹ Refer to appendix D for a complete list of ICE ACCESS programs and services.

Appendix C
287(g) Application and Approval Process

ICE field offices provide recommendations on whether ICE should pursue a 287(g) agreement with a requesting jurisdiction. Field recommendations are evaluated by an advisory committee established in early 2009. This advisory committee consists of representatives from 15 units within ICE, including DRO, OI, OCIO, OPR, and the Office of Training and Development. The committee develops and forwards consensus recommendations to the ICE Assistant Secretary on whether 287(g) collaborations with applicant LEAs would benefit ICE and the local community. The ICE Assistant Secretary reviews advisory committee recommendations before making a final determination.

ICE ACCESS Programs

In addition to the 287(g) program, ICE operates the following programs under the ICE ACCESS umbrella:²²

Asset Forfeiture/Equitable Sharing

The ICE Asset Forfeiture Program provides funding to state, local, and foreign law enforcement agencies that participate jointly in ICE investigations leading to seizures and forfeitures. ICE uses asset forfeiture to disrupt criminal enterprises in areas such as money laundering, bulk cash smuggling, worksite enforcement, and alien- and drug-smuggling investigations. ICE provides seized and forfeited funds and equipment to state, local, and foreign law enforcement counterparts through the Department of Treasury's Equitable Sharing Program. In addition to equitably sharing assets, some state and local law enforcement agencies are eligible to receive reimbursement for overtime and other limited investigative expenses associated with joint investigations.

Border Enforcement Security Task Forces

Border Enforcement Security Task Forces consist of DHS law enforcement agencies working cooperatively with other law enforcement entities to develop comprehensive approaches to identifying, disrupting, and dismantling criminal organizations posing significant threats to border security. These task forces are designed to increase information sharing and collaboration among participating agencies, and currently operate in Arizona, California, Florida, Michigan, New Mexico, New York, Texas, and Washington, as well as in Mexico City, Mexico.

Criminal Alien Program

The Criminal Alien Program focuses on identifying criminal aliens who are incarcerated within federal, state, and local facilities, ensuring that they are not released into the community by securing a final order of removal prior to the termination of their sentence.

Customs Cross-Designation (Title 19)

Title 19 U.S.C. 1401(i) allows ICE to cross-designate federal, state, local, and foreign law enforcement officers as “customs officers”

²² The following program descriptions are derived from information on ICE websites: <http://www.ice.gov/partners/dro/iceaccess.htm>, and <http://www.ice.gov/oslc/iceaccess.htm>.

and grant them the authority to enforce U.S. customs law. Cross-designated task force officers support ICE investigative missions to combat narcotics smuggling, money laundering, human smuggling and trafficking, and fraud-related activities and disrupt and dismantle criminal organizations threatening U.S. borders. In October 2009, ICE reported that it had cross-designated approximately 300 law enforcement officers with Title 19 authority.

Document and Benefit Fraud Task Forces

ICE Document and Benefit Fraud Task Forces target, dismantle, and seize illicit proceeds of criminal organizations that threaten national security and public safety through immigration fraud. These task forces provide platforms to launch anti-fraud initiatives using existing manpower and authorities. Through the task forces, ICE partners with other federal, state, and local law enforcement agencies. These task forces focus on detecting, deterring, and disrupting both benefit fraud and document fraud. As of August 2009, these task forces operated in 17 locations around the Nation.

Fugitive Operation Teams

The primary mission of fugitive operation teams is to identify, locate, apprehend, process, and remove fugitive aliens from the United States, with the highest priority placed on those who have been convicted of crimes. Fugitive aliens are those who have failed to leave the United States based upon a final order of removal, deportation, or exclusion; or who have failed to report to ICE after receiving notice to do so. Fugitive operation teams' goal is to eliminate the backlog of fugitive aliens and ensure that the number of aliens deported equals the number of final orders of removal issued by the immigration courts in any given year. Outside law enforcement agencies assist fugitive operation teams by participating in local Joint Fugitive Task Forces.

Intellectual Property Rights Coordination Center

The Intellectual Property Rights Coordination Center is the U.S. government's central point of contact in the fight against violations of intellectual property rights and the flow of counterfeit goods into the U.S. The multiagency center is responsible for coordinating a unified U.S. government response regarding intellectual property rights enforcement issues, with an emphasis on protecting the public health and safety of U.S. consumers, investigating major criminal organizations engaged in transnational intellectual property crimes, and pursuing the illegal proceeds

derived from the manufacture and sale of counterfeit merchandise. ICE provides investigative and intelligence personnel for the center.

Law Enforcement Support Center (LESC)

The mission of the LESL is to protect the United States and its people by providing timely, accurate information and assistance to the federal, state, and local law enforcement community. The LESL serves as a national enforcement operations center by providing customs information and immigration status and identity information to local, state, and federal law enforcement agencies on aliens suspected of, arrested for, or convicted of criminal activity. The LESL operates 24 hours a day, 7 days a week assisting law enforcement agencies with information gathered from eight DHS databases, the National Crime Information Center, Interstate Identification Index, and other state criminal history indexes.

Operation Community Shield

Operation Community Shield is a national law enforcement initiative to fight violent transnational gangs threatening public safety. Under this initiative, ICE uses its criminal and administrative authorities against gangs and gang members in collaboration with federal, state, and local law enforcement partners. The goal of Operation Community Shield is to identify, locate, arrest, and prosecute gang members and associates and ultimately disrupt and dismantle gang organizations.

Operation Firewall

Smuggling bulk currency out of the United States is a method for moving illicit proceeds across our borders. To combat the use of bulk cash smuggling by criminal organizations, the ICE and DHS' Customs and Border Protection developed a joint strategic bulk cash smuggling initiative called Operation Firewall. Operation Firewall has resulted in the seizure of more than \$80 million in U.S. currency and negotiable instruments of suspected narcotics and other criminal proceeds.

Operation Predator

Operation Predator is a program designed to identify, investigate, and, as appropriate, administratively deport child predators. ICE coordinates and integrates investigative efforts with state, local,

Appendix D

ICE ACCESS Programs

and foreign law enforcement to identify, arrest, and prosecute the principals who are involved in international pedophilic groups or who derive proceeds from commercial child exploitation ventures.

Rapid Removal of Eligible Parolees Accepted for Transfer (REPAT)

The ICE Rapid REPAT program is designed to expedite the process removing criminal aliens from the United States by allowing selected criminal aliens incarcerated in U.S. prisons and jails to accept early release in exchange for voluntarily returning to their country of origin. Eligible aliens agree to waive appeal rights associated with their state conviction(s) and must have final removal orders. In states where Rapid REPAT is implemented, certain aliens who are incarcerated in state prison and who have been convicted of non-violent offenses may receive early conditional release if they have a final order of removal and agree not to return to the United States. ICE has such arrangements with four states and Puerto Rico.

Secure Communities

The Secure Communities program aims to improve the identification of criminal aliens and prioritize the removal of dangerous criminal aliens. Under the program, ICE provides state and local LEAs with access to biometric identification systems that permit them to perform integrated record checks on all arrested and incarcerated persons, as well as on those criminals previously released from custody. ICE uses information from these checks to prioritize the immigration processing and removal of aliens based on their threat to public safety.

Appendix E
287(g) Program Jurisdictions

287(g) Jurisdictions

ICE has 287(g) agreements with 67 LEAs. As of October 28, 2009, six of these agreements remained agreements in principle, as they were pending approval by a local governing body. We have listed participating jurisdictions below by state, and included those with which ICE has an agreement in principle but for which the MOA is pending local approval.

Table 3. Jurisdictions Participating in the 287(g) Program

Participating Jurisdictions	Program Model		MOA	
	Jail	Task Force	Originally Signed	Current Status
Alabama				
Alabama Department of Public Safety		✓	9/10/2003	Signed
Etowah County Sheriff's Office	✓		7/8/2008	Signed
Arkansas				
Benton County Sheriff's Office	✓	✓	9/26/2007	Signed
City of Springdale Police Department		✓	9/26/2007	Signed
Rogers Police Department		✓	9/25/2007	Signed
Washington County Sheriff's Office	✓	✓	9/26/2007	Signed
Arizona				
Arizona Department of Corrections	✓		9/16/2005	Signed
Arizona Department of Public Safety		✓	4/15/2007	Signed
City of Mesa Police Department		✓		Pending
City of Phoenix Police Department		✓	3/10/2008	Signed
Florence Police Department		✓	10/21/2009	Signed
Maricopa County Sheriff's Office	✓		2/7/2007	Signed
Pima County Sheriff's Office	✓	✓	3/10/2008	Signed
Pinal County Sheriff's Office	✓	✓	3/10/2008	Signed
Yavapai County Sheriff's Office	✓	✓	3/10/2008	Signed
California				
San Bernardino County Sheriff's Office	✓		10/19/2005	Pending
Colorado				
Colorado Department of Public Safety		✓	3/29/2007	Signed
El Paso County Sheriff's Office	✓		5/17/2007	Signed
Connecticut				
City of Danbury Police Department		✓	10/15/2009	Signed
Delaware				
Delaware Department of Corrections	✓		10/15/2009	Signed

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287(g) Program Jurisdictions

Participating Jurisdictions	Program Model		MOA	
	Jail	Task Force	Originally Signed	Current Status
Florida				
Bay County Sheriff's Office		✓	6/15/2008	Signed
Collier County Sheriff's Office	✓	✓	8/6/2007	Signed
Florida Department of Law Enforcement		✓	7/2/2002	Signed
Jacksonville Sheriff's Office	✓		7/8/2008	Pending
Georgia				
Cobb County Sheriff's Office	✓		2/13/2007	Signed
Georgia Department of Public Safety		✓	7/27/2007	Signed
Gwinnett County Sheriff's Office	✓		10/15/2009	Signed
Hall County Sheriff's Office	✓	✓	2/29/2008	Signed
Whitfield County Sheriff's Office	✓		2/4/2008	Signed
Maryland				
Frederick County Sheriff's Office	✓	✓	2/6/2008	Signed
Minnesota				
Minnesota Department of Public Safety		✓	9/22/2008	Signed
Missouri				
Missouri State Highway Patrol		✓	6/25/2008	Signed
Nevada				
Las Vegas Metropolitan Police Department	✓		9/8/2008	Signed
New Hampshire				
Hudson City Police Department		✓	5/5/2007	Signed
New Jersey				
Hudson County Department of Corrections	✓		8/11/2008	Signed
Monmouth County Sheriff's Office	✓		10/15/2009	Signed
North Carolina				
Alamance County Sheriff's Office	✓		1/10/2007	Signed
Cabarrus County Sheriff's Office	✓		8/2/2007	Signed
Durham Police Department		✓	2/1/2008	Signed
Gaston County Sheriff's Office	✓		2/22/2007	Signed
Guilford County Sheriff's Office		✓	10/15/2009	Signed
Henderson County Sheriff's Office	✓		6/25/2008	Signed
Mecklenburg County Sheriff's Office	✓		2/27/2006	Signed
Wake County Sheriff's Office	✓		6/25/2008	Signed
Ohio				
Butler County Sheriff's Office	✓	✓	2/5/2008	Signed

Appendix E
287(g) Program Jurisdictions

Participating Jurisdictions	Program Model		MOA	
	Jail	Task Force	Originally Signed	Current Status
Oklahoma				
Tulsa County Sheriff's Office	✓	✓	8/6/2007	Signed
Rhode Island				
Rhode Island Department of Corrections	✓			Pending
Rhode Island State Police		✓	10/15/2009	Signed
South Carolina				
Beaufort County Sheriff's Office		✓	6/25/2008	Signed
Charleston County Sheriff's Office	✓			Pending
York County Sheriff's Office	✓		10/16/2007	Signed
Tennessee				
Davidson County Sheriff's Office	✓		2/21/2007	Signed
Tennessee Department of Safety		✓	6/25/2008	Signed
Texas				
Carrollton Police Department	✓		8/12/2008	Signed
Farmers Branch Police Department		✓	7/8/2008	Signed
Harris County Sheriff's Office	✓		7/20/2008	Pending
Utah				
Washington County Sheriff Office	✓		9/22/2008	Signed
Weber County Sheriff's Office	✓		9/22/2008	Signed
Virginia				
Herndon Police Department		✓	3/21/2007	Signed
Loudoun County Sheriff's Office		✓	6/25/2008	Signed
Manassas Park Police Department		✓	3/10/2008	Signed
Manassas Police Department		✓	3/5/2008	Signed
Prince William County Police Department		✓	2/26/2008	Signed
Prince William County Sheriff's Office		✓	2/26/2008	Signed
Prince William-Manassas Regional Jail	✓		7/9/2007	Signed
Rockingham County Sheriff's Office	✓	✓	4/25/2007	Signed
Shenandoah County Sheriff's Office	✓	✓	5/10/2007	Signed

Source: ICE OSLC.

Appendix F

Major Contributors to This Report

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Appendix G

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