



## *287(g) Program*

# Program Advisory Board Governance Structure

Version 5.03

*May 2020*



U.S. Immigration  
and Customs  
Enforcement

## Executive Summary

The 287(g) Program has grown as state and local law enforcement agencies (LEAs) increasingly understand that partnering with ICE enhances the safety and security of their communities. The 287(g) Program derives its authority from Section 287(g) of the Immigration and Nationality Act (INA), which permits the Secretary of the Department of Homeland Security (DHS) to delegate certain federal immigration enforcement authorities to state and local law enforcement officers. The 287(g) Program was established within U.S. Immigration and Customs Enforcement (ICE) and resides under the Office of Enforcement and Removal Operations (ERO). The 287(g) Program manages and oversees partnerships with LEAs whose officers are delegated 287(g) authority.

The 287(g) Program Advisory Board (PAB) provides a framework for reviewing an LEA's request for participation in the program, and, if needed, a framework for terminating an existing partnership. Each voting member of the PAB is given the opportunity to provide a recommendation to ICE leadership on 287(g) membership. The PAB membership has seven "Voting Members," and a quorum of five Voting Members is needed to conduct business. The PAB membership includes three non-voting advisory members whose sole purpose is to advise of any relevant information to the PAB recommendation. Responsibilities for PAB members set forth in this document recognize the importance of consistency and transparency of 287(g) operations.

# Table of Contents

	Page
<b>1. <u>Document Purpose</u></b> .....	<b>4</b>
<b>2. <u>Mission and Background of PAB</u></b> .....	<b>4</b>
2.1. <u>Mission</u> .....	4
2.2. <u>Background</u> .....	4
<b>3. <u>Organizational Structure</u></b> .....	<b>4</b>
<b>4. <u>PAB Membership</u></b> .....	<b>5</b>
<b>5. <u>PAB Responsibilities</u></b> .....	<b>6</b>
<b>6. <u>Operating Procedures</u></b> .....	<b>7</b>
6.1. <u>Membership Expectations and Accountability</u> .....	7
6.2. <u>PAB Meeting Procedures</u> .....	7
6.2.1. <u>Preparation Prior to PAB Meetings</u> .....	8
6.2.2. <u>Recommendation Process for LEA Participation</u> .....	8
6.2.3. <u>Procedures for Temporary Suspension of an MOA</u> .....	9
6.2.4. <u>Process for Termination of an MOA</u> .....	10
6.2.5. <u>Procedures Following PAB Meetings</u> .....	10
6.3. <u>Records and Documentation</u> .....	11
Table 1: PAB Membership .....	5
Table 2: Roles and Responsibilities .....	6
Table 3: LEA Summary of Information .....	8

# **1. Document Purpose**

This document provides a structural overview of the governance body empowered with the authority, direction, and procedures to submit recommendations to the ICE Director on the participation of state and local LEAs in the 287(g) Program. This governance structure defines standard roles, responsibilities, and operating procedures for membership in the 287(g) PAB.

## **2. Mission and Background of the PAB**

### **2.1. Mission**

The PAB, comprised of federal government representatives within ICE and DHS, evaluates 287(g) Program applicants and submits recommendations to the ICE Director on the suitability of a state or local LEA for participation in the 287(g) Program. The PAB also submits recommendations to the ICE Director on terminating existing partnerships.

### **2.2. Background**

ICE partners with state and local LEAs to promote public safety through cooperative investigation and enforcement actions throughout the United States. The 287(g) Program was established within ICE to manage and oversee partnerships with state and local law enforcement agencies whose officers are delegated 287(g) authority.

To participate in the 287(g) Program, state and local LEAs must submit a written request to ICE. These requests are received and evaluated by the Field Office Director (FOD) in whose area of responsibility (AOR) the LEA is located, who considers the availability of resources and LEA's suitability for the program. The FOD submits a letter of support or non-support to the Assistant Director for Enforcement (ADE) for review and consideration prior to presentation to the PAB.

## **3. Organizational Structure**

For the purposes of the PAB, 287(g) Program leadership is comprised of the ERO ADE or designee, the Deputy Assistant Director (DAD) for the Criminal Alien Division (CAD) or designee, and the 287(g) Program Unit Chief. The ADE or designee chairs the PAB and is responsible for coordinating all meetings. The 287(g) program managers assist program leadership in preparing for and coordinating PAB meetings.

PAB membership is comprised of seven "Voting Members" and three "Non-Voting Members". In order to conduct business, five of the seven Voting Members or their designee must be present. Although non-voting advisory participants are expected to attend PAB meetings and make recommendations, the PAB will convene in their absence.



## 4. PAB Membership

The PAB members are responsible for oversight, supervision, and/or other supporting activities related to the 287(g) Program. As appropriate, 287(g) Program leadership will request participation on the PAB by additional government representatives as needed.

The makeup of the PAB is illustrated in the table below.

PAB Member	Voting Status	Role Within the PAB
ERO - Enforcement	Yes	Chairs the PAB, ensures that all pending requests are reviewed, and receives and manages any request to terminate an agreement. Advises the Director of the PAB recommendations.
ERO - Field Operations	Yes	Provides information regarding existing ICE resources within a LEA's AOR. Provides supporting documentation regarding enforcement needs in identified geographic areas.
ICE Office of Congressional Relations	Yes	Provides relevant information regarding congressional interest within a LEA's congressional district.
ICE Office of Public Affairs	Yes	Provides the PAB with insight on any recent media coverage regarding a potential or existing LEA partner, as well as coverage concerning criminal alien cases within and near the LEA's jurisdiction.
ICE Office of Professional Responsibility	Yes	Provides informational awareness on background and open source checks conducted on potential and existing LEA partners.
Victims Of Immigration Crime Engagement (VOICE) Office	Yes	Provides insight on cases within (or near) the jurisdictions of potential or existing LEA partners, with a specific focus on victim equities within the communities.
DHS Office for Civil Rights and Civil Liberties	Yes	Advises on civil liberties and civil rights issues associated with potential or existing LEA partners, including an analysis of the extent to which having a 287(g) agreement with a jurisdiction will help protect civil rights and civil liberties of residents within the jurisdiction.

ICE Office of the Chief Information Officer	Non-Voting Advisory Participant	Advises on technical or Information Technology questions as they relate to the site of the LEA.
ICE Office of Policy and Planning	Non-Voting Advisory Participant	Advises on the extent to which an LEA's involvement in the 287(g) Program promotes ICE's policy mission.
Office of the Principal Legal Advisor	Non-Voting Advisory Participant	Provides legal advice relevant to the PAB's recommendation.

Table 1: PAB Membership

## 5. PAB Responsibilities

The table below identifies the distinction of responsibilities of members within the PAB.

Role	Responsibilities
<b>287(g) Program leadership</b> <i>(Includes ADE or designee, CAD DAD or designee, and 287(g) Unit Chief)</i>	<ul style="list-style-type: none"> <li>▪ Facilitate all PAB meetings</li> <li>▪ Serve as the primary points of contact between PAB members and the 287(g) Program</li> </ul>
<b>287(g) program managers</b> <i>(under the direction of the 287(g) Unit Chief)</i>	<ul style="list-style-type: none"> <li>▪ Gather information on 287(g) Program requests from LEAs prior to PAB meetings</li> <li>▪ Prepare documents with background information on LEAs under review</li> <li>▪ Provide input on LEAs within their AORs to the PAB</li> <li>▪ Document outcomes of PAB meetings</li> </ul>
<b>ICE and DHS Voting Members</b>	<ul style="list-style-type: none"> <li>▪ Review background information on LEAs under review before attending PAB meetings</li> <li>▪ Provide information in PAB meetings that is relevant to the LEA under review</li> <li>▪ If present, must provide a recommendation of approval or denial for all LEAs under review</li> </ul>
<b>ICE Office of the Chief Information Officer</b>	As a non-voting advisory member, OCIO provides advice relevant to the PAB's recommendation.
<b>Office of the Principal Legal Advisor</b>	As a non-voting advisory member, OPLA provides advice relevant to the PAB's recommendation.
<b>ICE Office of Policy and Planning</b>	As a non-voting advisory member, OPP provides advice relevant to the PAB's recommendation.

Table 2: Roles and Responsibilities within the PAB

The PAB's evaluation of an LEA's request for participation shall be primarily focused on whether ICE and the LEA have the resources to enter into an agreement, whether the agreement would advance ICE's mission by promoting enforcement and public safety, and whether the LEA is the subject of legal, ethical, or civil rights and civil liberties violations.

PAB members shall not render a decision on an LEA's participation based on political opinion(s) of PAB members, LEAs, or Law Enforcement Officers (LEOs). PAB members shall be mindful that investigations of LEA personnel and allegations of wrongdoing alone should not be determinative, but rather, part of the entire record when rendering a decision on whether to support a 287(g) agreement.

PAB members who wish to introduce issues for discussion are required to research the issues to the greatest extent possible before seeking additional research efforts from other PAB members. If a PAB member believes an issue should be investigated, that investigation should be concluded prior to the PAB meeting; neither the PAB meeting nor any vote shall be unnecessarily delayed due to PAB members failing to timely initiate or conclude research.

Under no circumstances shall a PAB member condition their vote on requiring additional conditions or actions on the part of a LEA seeking participation beyond what is required for participation in the 287(g) Program.

## **6. Operating Procedures**

### **6.1. Membership Expectations and Accountability**

DHS and ICE offices with relevant knowledge of issues relating to 287(g) Program operations and/or LEAs requesting 287(g) Program participation are included as members on the PAB with the expectation that they will provide the PAB with pertinent factual information that will enable the PAB to make informed recommendations on 287(g) Program partnerships. PAB members will present *only* information specific to the mission area of the agency or office they represent, and not the generalized opinions of third parties. Any PAB member can provide factual, specific information as it relates to a specific 287(g) applicant.

A quorum of five "Voting Members" of the PAB *must* be present at all PAB meetings and must review the information that the 287(g) Program provides regarding the LEAs under review prior to the PAB convening. At least 14 calendar days prior to the PAB meetings, all members should share with the 287(g) Headquarters (HQ) Unit any relevant data or information to assist in the PAB's ability to make informed recommendations regarding 287(g) Program partnerships.

### **6.2. PAB Meeting Procedures**

PAB meetings will be scheduled no more frequently than once per quarter to review LEA applications received and any requests from ICE leadership to terminate a partnership. If such requests are not received, the PAB meeting will be cancelled. The PAB should strive to afford members at least 45 days prior to each meeting to conduct any necessary research and preparation, and then hold a vote. This timeframe will assist ICE in providing LEAs a timely

response of their application, absent extraordinary circumstances outside of the control of DHS and/or ICE.

Voting Member offices are expected to attend all meetings. Office leadership may send a delegate designee to represent the Voting Member office as necessary.

Absent extraordinary circumstances outside of the control of DHS and/or ICE, votes should be taken on each LEA under review at each PAB meeting. In instances where significant information obtained immediately prior to or at a PAB meeting — information which could not have reasonably been included in the information packet and which could have a material impact on Member votes — the vote may be tabled for one meeting, not to exceed a period of 90 days. ERO Enforcement may call the PAB to vote on the tabled vote prior to the next meeting at its discretion. Every tabled vote must receive a vote.

### **6.2.1. Preparation Prior to PAB Meetings**

Prior to meeting with PAB members, 287(g) Program managers will prepare an LEA Summary of Information Packet for each LEA under review. Table 3 below shows the information that will be part of the Summary Information Packet for LEA requests for participation in the program:

<b>LEA Summary of Information Packet</b>	
▪	Summary of Information: <ul style="list-style-type: none"><li>○ LEA Information – Address and Sheriff’s Information</li><li>○ Distance from ERO Office</li><li>○ LEA Statistics</li></ul>
▪	LEA Request Letter
▪	Memorandum of FOD Support or Non-Support
▪	Completed LEA Needs Assessment
▪	ADE Letter of Concurrence or Non-Concurrence

**Table 3: LEA Summary of Information**

No later than 45 days from the scheduled PAB meetings, 287(g) Program leadership will send out a meeting invitation to members of the PAB and will include the Summary of Information Packet for the LEAs under review. PAB members are requested to share with the 287(g) Unit Chief, at least 14 calendar days prior to the PAB meeting, any information related to questions and/or concerns in reference to the LEAs under review.

### **6.2.2. Recommendation Process for LEA Participation**

The 287(g) Program leadership will initiate PAB meetings by identifying those LEAs which have submitted a request to participate in the 287(g) Program. A representative from 287(g) Program leadership will propose a motion to recommend for approval all LEA requests that are unanimously unopposed by PAB voting members. For each of the remaining requests that require additional discussion, 287(g) Program leadership will facilitate the following steps:



1. 287(g) Program leadership will summarize background information provided.
2. 287(g) Program managers may provide additional background information and input on those LEAs within their AORs, as needed.
3. 287(g) Program leadership will ask PAB members to come forward with any additional, recently-obtained information that could not have reasonably been provided to the 287(g) Unit Chief 14 calendar days prior to the meeting that may affect the recommendation.<sup>1</sup>
4. Once all relevant information has been shared with the PAB, 287(g) Program leadership will ask the Voting Members to provide a recommendation whether to support participation by the LEA.
5. The 287(g) Unit Chief or designee will document the members' votes in a memorandum to the ICE Director, which will be shared with the PAB members, setting forth the PAB's recommendation whether to approve or deny the LEA's request for participation in the 287(g) Program.

### **6.2.3. Procedures for Temporary Suspension of an MOA**

In instances where serious misconduct or violations of the terms of the MOA come to the attention of ICE, the ICE Director may, upon recommendation of the Executive Associate Director for Enforcement and Removal Operations, elect to immediately suspend the MOA pending investigation of the misconduct and/or violations.

Notice of the suspension must be provided to the 287(g) partner, and the notice must include, at a minimum, (1) an overview of the reason(s) that ICE is suspending the 287(g) agreement, (2) the length of the temporary suspension, and (3) how the 287(g) partner can provide ICE with information regarding the alleged misconduct and/or violations, as well as any corrective measures it has undertaken.

ICE shall provide the 287(g) partner with a reasonable opportunity to respond to the alleged misconduct and/or violations and to take actions to implement corrective measures (e.g. replace the officer(s) who are the focus of the allegations). No later than 90 days following the suspension, the PAB members shall meet to vote on whether to (1) recommend that the ICE Director vacate the suspension, (2) recommend that the ICE Director continue the suspension, or (3) recommend that the ICE Director terminate the 287(g) agreement. If the PAB recommends that the ICE Director continues the suspension, the PAB shall meet and vote again on these three options no later than 90 days after this first recommendation. The PAB will meet and vote on these three recommendation options every 90 days until the suspension is lifted or the 287(g) agreement is terminated. The 287(g) Unit Chief or designee will document the members' votes in a memorandum to the Director, which will be shared with the PAB members, setting forth the PAB's recommendation.

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<sup>1</sup> If information is obtained fewer than 14 calendar days prior to the PAB meeting, the PAB Member in receipt of the information must provide it to the Unit Chief as early as reasonably possible prior to the PAB meeting.

ICE will provide the 287(g) partner timely notice of a suspension being extended or vacated.

If the allegations are determined to be unfounded or where the 287(g) partner takes appropriate actions to cure any misconduct or violations, the PAB shall recommend that the ICE Director vacate the suspension. In instances where the misconduct and/or violations are unresolvable, egregious, and/or detrimental to the 287(g) program and ICE, the ICE Director may elect to terminate the MOA via the process set out in Section 6.2.4. If ICE elects to proceed with termination of a 287(g) agreement that is currently suspended, the suspension shall remain in place during the process set out in Section 6.2.4 and until the MOA is terminated.

**Notice of the suspension shall sent by the ICE Director to the 287(g) LEA partner and any state/local office or entity involved in the process of signing the MOA.**

ICE's decision to suspend an MOA will be published on [www.ice.gov/287g](http://www.ice.gov/287g) concurrent with notification to the LEA.

#### **6.2.4. Process for Termination of an MOA**

In the interest of ensuring the resources of ICE and 287(g) partners are respected and that cooperative agreements are not arbitrarily rescinded, if ICE proposes to terminate a 287(g) partnership with an LEA that has entered into an MOA, the PAB must hold a vote consistent with the process in Subsection 6.2.2. after reviewing a summary of information packet described in Table 3 that is updated with relevant information. If a 287(g) partner is working to take corrective measures, the PAB should generally not recommend termination of an agreement and should instead favor a temporary suspension; the termination of an agreement should be reserved for partnerships with problems that are unresolvable and detrimental to the 287(g) Program.

ICE will provide the LEA a 90-day notice in advance of the partnership being terminated. The 90-day notice must include, at a minimum, the following information:

1. An overview of the reason(s) that ICE seeks to terminate the 287(g) agreement;
2. All available data on the total number of aliens identified under the 287(g) agreement;
3. Three examples of egregious criminal aliens identified under the 287(g) agreement; and
4. The votes of each PAB member office and an explanation for the support/opposition.

**The notice shall accompany a Notice of Intent to Terminate letter sent by the ICE Director to the 287(g) LEA partner and any state/local office or entity involved in the process of signing the MOA.**

ICE's decision to terminate an MOA will be published on [www.ice.gov/287g](http://www.ice.gov/287g) 90 days in advance of the MOA's termination.

#### **6.2.5. Procedures Following PAB Meetings**

The 287(g) Unit Chief is responsible for preparing the memorandum documenting the PAB's final recommendations, and any justification for each recommendation, for the ICE Director. The recommendations in support and opposition should be included in each memorandum (regardless

of the overall vote) and attributed to the office that made them. The recommendation memoranda will be made available to PAB members. If an LEA was not recommended for approval, the memorandum may also include existing or potential alternative ICE programs or resources that may assist an LEA with addressing immigration enforcement issues within the LEA's community.

### **6.3. Records and Documentation**

The 287(g) Unit Chief will designate an ICE employee or contractor to take minutes during PAB meetings. Each individual representative's recommendation will be documented. Upon completion of the PAB, draft minutes will be distributed to voting PAB members, then to the Director for consideration.