



U.S. Immigration  
and Customs  
Enforcement

JUL 20 2010

MEMORANDUM FOR: Special Agents in Charge  
Field Office Directors

FROM: Alonzo R. Peña *Alonzo R. Peña*  
Deputy Director

SUBJECT: Additional Field Guidance on Monitoring the Exercise of 287(g)  
Authority

Purpose

This memorandum provides additional insight and guidance to ICE Special Agents in Charge (SAC) and Field Office Directors (FOD) on how to monitor the exercise of 287(g) authority in their area of responsibility and to ensure our 287(g) partners are adhering to the priorities set forth in the revised memorandum of agreement (MOA).

Background

In December 2009, Deputy Assistant Secretary Peña issued a memorandum titled "*Monitoring the Exercise of 287(g) Authority*", which conveyed his expectations on how SAC and FOD offices will oversee the 287(g) program and ensure that 287(g) partners are adhering to the priorities set forth in the revised MOA. A requirement of the memorandum was to provide the Office of the Assistant Secretary with a quarterly memo assessing each 287(g) jurisdictions performance.

In January 2010, a memorandum titled "*Field Guidance on Monitoring the Exercise of 287(g) Authority*" was created which provided direction on how SAC and FOD offices should monitor the exercise of 287(g) authority.

In April 2010, SAC and FOD offices provided reports documenting their reviews of the statistical information provided by the Office of State and Local Coordination (OSLC). In response to these reports, I am providing additional guidance on what types of information should be contained within these reports.

With the realignment of OSLC, Enforcement and Removal Operations (ERO) will oversee the Jail Enforcement Operations (JEO) and Homeland Security Investigations (HSI) will oversee the Task Force Operations (TFO).

Discussion

As the offices with operational oversight for the 287(g) program, SACs and FODs have the important task of ensuring that Law Enforcement Agencies (LEAs) adhere to the terms of the MOA and exercise the delegated authority consistent with the priorities of ICE, as set forth in the MOA.

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Using their operational knowledge of the program, the SAC and FOD should review the statistical information and articulate how each 287(g) program supports the ICE mission, adheres to the terms of the MOA, and exercises delegated authority consistent with the priorities of ICE, as set forth in the MOA. The SAC and FOD shall complete the following tasks, if applicable, to assist in creating a complete response:

- Manually review a sampling of each criminality level, including “no data”, “none”, “traffic-other”, and “traffic-DUI” fields, to ensure the criminality level is reflected accurately and adheres to the 287(g) processing guidelines. Complete data quality updates as needed;
- Obtain statistics from the partnering LEA’s regarding the “criminality levels” of all encounters in their local jurisdiction to enable the SAC/FOD office to compare 287(g) criminality levels to that of the entire LEA criminal population;
- If a 287(g) program has either no or low encounters since its inception or if the encounters are not consistent with ICE priorities, provide a comprehensive recommendation supported by relevant facts and data, as well as anecdotal evidence on whether the delegation of Title 8 authority is appropriate and necessary. Determine if alternative programs, such as the delegation of Title 19 authority, may be utilized by the LEA to partner with ICE-led task forces;
- Review the criminal and non-criminal encounter information to ensure that 287(g) officers are focusing on convicted criminal aliens by allocating resources to identify and process for removal convicted criminal aliens who pose a threat to public safety or a danger to the community;
- Review the “dismissed” and “turned over to INS without prosecution” fields to ensure that LEAs are adhering to the terms of the MOA and are pursuing to completion the criminal charges that caused the alien to be taken into custody and over which the agency has jurisdiction; and

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**On a quarterly basis, the SAC and FOD office shall provide through the appropriate HSI or ERO Executive Associate Director, with a comprehensive report assessing the performance of the 287(g) program. If the 287(g) program is not operating in accordance with ICE priorities, the report should address what actions the SAC/FOD is taking to ensure compliance with ICE priorities. The SAC and FOD office shall complete one report per 287(g) programs in their area of responsibility.**