



NEWS

ACLU: METRO SHOULD ABANDON 287(g) PROGRAM Immigration Enforcement Agreement Fundamentally Flawed

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LAS VEGAS, NV – On July 21, the American Civil Liberties Union of Nevada sent a letter to the Las Vegas Metropolitan Police Department (“Metro”) expressing its disappointment about Metro’s participation in a federal program that authorizes local law enforcement agencies to enforce federal immigration laws. Metro has been operating the program, known as a 287(g) agreement after the authorizing section of the U.S. Immigration and Nationality Act, since October 2008.

On July 10, the federal government announced changes to 287(g), requiring the renegotiation of all existing agreements between Immigration Customs Enforcement (ICE) and local law enforcement agencies. The ACLU of Nevada is using this opportunity to urge both Metro and the City of Mesquite, which recently signed a 287(g) agreement, to abandon the program. **“287(g) is fundamentally flawed. It’s time for Metro to walk away from 287(g), and Mesquite should not start down the 287(g) path,”** said **Judy Cox, an ACLU of Nevada attorney.**

The ACLU of Nevada believes that immigration enforcement is a federal issue and suggests that local law enforcement agencies waste resources when enforcing federal civil immigration law. Indeed, in order to participate in the 287(g) program the local agency must pay all expenses, yet ICE can cancel at any time.

The ACLU of Nevada says that 287(g) provides a perverse incentive for law enforcement to target, question, and arrest people based on physical appearance and race. The new agreement increases this incentive by giving ICE authority to terminate the agreement if it determines the agency no longer needs the 287(g) program. This puts pressure on participating agencies to make sure their arrest and detention statistics demonstrate a continuing need, rather than investigating and prosecuting crimes based on their severity.

“Metro should get back to the business of enforcing local laws, focusing on serious crimes rather than someone’s possible federal civil violations, and reaching out to diverse groups to maintain a safe environment for the whole Las Vegas community,” said Cox.

A community meeting about 287(g) was held Thursday, July 16. Metro officers admitted to asking people on the street about their immigration status and asking for Social Security numbers, even if the individual already provided identification. Sheriff Douglas Gillespie has stated that Metro policy prohibits such random interrogations, and the current 287(g) agreement limits Metro to only asking about an individual’s immigration status after they have been arrested and booked in jail.

One man at Thursday's meeting said Metro officers entered individual apartments to question tenants after the apartment managers provided Metro with the names and Social Security numbers of all tenants. An immigration attorney spoke on behalf of her clients: one was arrested for jaywalking and another was arrested for not having a light on the back of his bicycle. Both were subsequently questioned about their immigration status and their names were given to ICE.

"When police departments engage in these kinds of practices, people are hesitant to reach out to law enforcement to report crimes or serve as witnesses, which in turn makes it harder to investigate and prosecute serious crimes," Cox said. "Under this program, even victims of crime and people who have done nothing wrong will be deterred from cooperating with Metro. Instead, they will equate Metro with ICE and keep quiet for fear of deportation," she added.

While the federal government says that changes to the 287(g) program are designed to target dangerous criminal aliens, the ACLU of Nevada believes that the revisions fail to achieve that goal. They point out that ICE still has case-by-case authority to assume custody of anyone arrested, even those who have never been convicted of a crime.

The 287(g) agreement does not require law enforcement agencies to monitor the effects of the program. Under the revised agreement, enforcing agencies are actually prohibited from sharing information about the program or individuals who are detained, a provision that the ACLU of Nevada says "flies in the face of the fundamental right of taxpayers" to know what public agencies are doing. Furthermore, the new agreement explicitly states that participating agencies are not required to keep track of detailed information whereas the old agreement stipulated that agencies were responsible for tracking and maintaining accurate data for their 287(g) programs.

The new federal guidelines provide a mechanism for detained individuals to report suspicion of racial profiling or abuses to the Department of Homeland Security. However, the ACLU of Nevada called this policy "nonsensical" since individuals held in secret detention "are in no position to find out about a complaint process, fill out the proper form, and forward it to DHS."

"The federal government is proclaiming that none of the records related to 287(g) are 'public records' – in other words, the federal government says it has the ability to operate this program in secret and without public scrutiny," said Cox. "It is very disturbing that the federal government is not only asking local law enforcement agencies to do its work, but is also claiming local agency records are somehow owned by the federal government."

On July 7, 2009, the ACLU of Nevada sent Metro a Public Records Act request seeking information about the 287(g) program as it is currently being operated. Among other things, the ACLU of Nevada asked to inspect records pertaining to the training and supervision of Metro officers by ICE, complaints that have been filed in relation to the program, and a breakdown of arrests by race/ethnicity.

"Metro has touted itself to be one of the most transparent law enforcement agencies in the country, so we are eager to see how they respond to this public records request," said Cox. "When we're talking about fundamentally changing the role of local police officers, the public should not be shut out."

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