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287(g) in Georgia

What is the 287(g) Program?

- The 287(g) program, created by the Immigration and Nationality Act, allows the Department of Homeland Security to put into place memoranda of understanding with localities. These agreements deputize local law enforcement to act as immigration agents with little training and grants them certain powers that include:¹
 - Investigating the immigration status of people at the jail
 - Using ICE databases
 - Issuing Detainers
 - Placing individuals in removal proceedings
- In Georgia, there are currently six 287(g) programs in place:² Floyd County, Georgia Department of Corrections, Hall County, Oconee County, Polk County, and Whitfield County.
- The 287(g) program in Gwinnett and Cobb Counties were terminated in 2021 after years of organizing and a successful grassroots campaign led by [GLAHR and other organizations on the ground](#).
- The 287(g) program is one of the most significant ways community members end up in ICE custody for minor infractions if any at all.³ For example, in Hall and Whitfield Counties, over 90% of all ICE arrests originated through the 287(g) program. *See Table 1.*
- In addition to participating in the 287(g) program that allows localities to detain individuals for ICE until they are transferred into ICE custody, Hall and Whitfield Counties have Intergovernmental Service Agreements (IGSA) where they receive a per diem rate to detain immigrants who are under ICE custody while they go through their immigration proceedings; Hall County receives \$53 per detained immigrant per day and Whitfield County receives \$41.03 per detained immigrant per day. This means these particular counties have an even greater incentive to detain immigrants through the 287(g) program as they receive direct financial gains from further detaining immigrants for ICE through the IGSA.

Table 1	Fiscal Year (FY) of 2018			Fiscal Year (FY) of 2017		
	County	Total ICE Arrests	Number of ICE arrests through 287(g)	Percentage of ICE arrests through 287(g)	Total ICE Arrests	Number of ICE arrests through 287(g)
Floyd	12	0	0%	14	0	0%
Hall	239	238	99%	386	385	99%
Whitfield	219	216	98%	252	233	92%

Source: TRAC, Syracuse University, <https://trac.syr.edu/phptools/immigration/apprehend/>.

¹https://www.americanimmigrationcouncil.org/sites/default/files/research/the_287g_program_an_overview_0.pdf; https://www.ilrc.org/sites/default/files/resources/ilrc_287g_report_3p-ar_final-v2.pdf.

² <https://projectsouth.org/wp-content/uploads/2018/10/287g-agreements-in-Georgia-Update.pdf>.

³ <https://theintercept.com/2017/05/08/police-in-georgia-are-turning-traffic-stops-into-the-first-step-toward-deportation/>; TRAC, Syracuse University, <https://trac.syr.edu/phptools/immigration/apprehend/>; <https://www.ajc.com/news/breaking-news/georgia-sheriffs-have-mixed-results-with-immigration-enforcement/iJVpfrv40XNVFSnWMfCWQO/>.



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Why is it Problematic?

- **1) Increases Racial Profiling**
 - Increased collaboration between local law enforcement and **ICE impacts communities of color disproportionately.**⁴
 - A 2011 ACLU of Georgia report noted that in Georgia, “those targeted by arrests and detainers are primarily from Latin America.”
 - Nationally, those subject to ICE detainers have almost always been described as having “dark or medium complexion.” In 2013, 96.4% of individuals subject to ICE detainers involved those with a “dark or medium complexion.” This percentage rose about 30% from 2007, where 66.7% of individuals subject to ICE detainers were reported by ICE to be of a “dark or medium complexion.”
 - Reports on Cobb and Gwinnett County 287(g) programs found that **officers in both counties engaged in racial profiling and human rights violations** that led to further mistrust of local law enforcement by immigrant communities.⁵
 - It is also common in Cobb and Gwinnett for “police officers to pull over immigrants for a broad variety of minor violations and then take them to county jails on charges of improper identification. In fact, almost 500 of the noncitizens with ICE detainers placed by Gwinnett County’s 287(g) program in the first 14 months of operation had been charged only with driving without a license.”⁶
 - In Gwinnett County, many Latino community members reported being **stopped by law enforcement without probable cause or reasonable suspicion.**⁷

- **2) Makes Communities Less Safe**
 - Due to increased law enforcement collaboration with ICE, including through the 287(g) program, there is greater community mistrust in law enforcement.⁸
 - GLAHR and the ACLU of Georgia conducted a survey that found community members were more likely to avoid certain areas of the neighborhood where there is greater law enforcement presence.⁹
 - The survey also found that community members were **less likely to call the police even if they are victims of a crime or are reporting a crime** due to fear of getting caught up in immigration proceedings.¹⁰
 - Other reports point out that **immigrant women may not report domestic violence** to law enforcement due to fear of being detained because of their immigration status.¹¹

⁴ https://www.law.nyu.edu/sites/default/files/upload_documents/Prejudice_Policing_Public_Safety.pdf.

⁵ https://www.aclu.org/files/inthumanrights/immigrantsrights/asset_upload_file104_41281.pdf.

⁶ <https://www.migrationpolicy.org/research/delegation-and-divergence-287g-state-and-local-immigration-enforcement>.

⁷ https://www.acluga.org/sites/default/files/gwinnett_racial_profiling_report_1.pdf.

⁸ https://www.law.nyu.edu/sites/default/files/upload_documents/Prejudice_Policing_Public%20Safety.pdf.

⁹ https://www.law.nyu.edu/sites/default/files/upload_documents/Prejudice_Policing_Public%20Safety.pdf;

https://www.aclu.org/files/inthumanrights/immigrantsrights/asset_upload_file104_41281.pdf.

¹⁰ https://www.law.nyu.edu/sites/default/files/upload_documents/Prejudice_Policing_Public%20Safety.pdf.

¹¹ https://www.acluga.org/sites/default/files/gwinnett_racial_profiling_report_1.pdf; <https://www.nytimes.com/2018/06/03/us/immigrants-houston-domestic-violence.html>.



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- Data does not indicate that those arrested by ICE pose a threat to the community.
- A 2011 Migration Policy Institute report showed that about **67% of 2010 ICE detainees in Cobb County were placed on individuals for traffic violations or no violation at all.**¹²
- The same study showed that 60% of ICE detainees in Gwinnett were placed on individuals with traffic violations and low-level crimes¹³. In addition, the report found that Southeast localities with the 287(g) program including Cobb and Gwinnett counties had “relatively high shares of traffic offenders and low shares of Level 1 and 2 offenders¹⁴ compared to the national average.”
- 2017 and 2018 TRAC Data from Syracuse University illustrate similar trends.¹⁵
- **Over 80% of ICE arrests in Georgia counties participating in the 287(g) program are arrests of individuals with no violation or low-level violations.** See Table 2.

Table 2 ¹⁶	FY of 2018: Percentage of ICE Arrests with No Conviction or Low- Level Crimes	FY of 2017: Percentage of ICE Arrests with No Conviction or Low- Level Crimes
Hall	82%	88%
Whitfield	88%	82%

Source: TRAC, Syracuse University, <https://trac.syr.edu/phptools/immigration/apprehend/>.

• **3) Wastes Local Resources**

- Instead of focusing on local priorities, law enforcement with 287(g) programs must do the work of federal immigration agents and incur almost all the cost associated with it.¹⁷ These costs include: “travel, housing, and per diem for officers during training; salaries; overtime; other personnel costs; and administrative supplies.”¹⁸
- According to a 2018 Georgia Budget and Policy Institute (GBPI) Report, the 287(g) program places a tremendous financial burden on Georgia’s localities.
- Hall County spent \$212,638 of taxpayer money on the salary of five officers for the 287(g) program.²⁰

¹² <https://www.migrationpolicy.org/research/delegation-and-divergence-287g-state-and-local-immigration-enforcement>.

¹³ <https://www.migrationpolicy.org/research/delegation-and-divergence-287g-state-and-local-immigration-enforcement>.

¹⁴ According to the Migration Policy Institute Report, level 1 and 2 crimes are serious crimes while level 3 crimes are low level crimes.

¹⁵ <https://trac.syr.edu/phptools/immigration/apprehend/>.

¹⁶ TRAC defined Level 3 offenses as “misdemeanors, including petty and other minor violations of the law.”

https://trac.syr.edu/phptools/immigration/arrest/about_data.html/

¹⁷ https://www.ilrc.org/sites/default/files/resources/ilrc_287g_report_3p-ar_final-v2.pdf.

¹⁸ <https://www.americanimmigrationcouncil.org/research/287g-program-immigration>

¹⁹ <https://cdn.gbpi.org/wp-content/uploads/2018/07/Voluntary-Immigration-Enforcement-a-Costly-Choice-for-Georgia-Communities.pdf>.

²⁰ <https://www.ajc.com/news/breaking-news/georgia-sheriffs-have-mixed-results-with-immigration-enforcement/iJVpfrv40XNVFSnWMfCWQO/>



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- Almost all expenses from the 287(g) program are taken directly out of local budgets and tax dollars.²¹ In fact, GBPI estimates that localities in Georgia with a 287(g) program **recovered only 12% of the cost** it took to implement the program.
 - **287(g) programs are also a liability.** Localities may face litigation for detaining individuals on the basis of an ICE detainer since several federal courts have found this practice to violate the Fourth Amendment.²² Additionally, several reports have shown that 287(g) programs lead to illegal racial profiling and civil rights abuses that could cause the locality to be sued.²³
- **4) Separates Families**
 - 287(g) regularly separates families because it leads to loved ones being detained and plays an **active role in the deportation pipeline** by deputizing local law enforcement to act as federal immigration agents. In addition to being traumatized and separated from their loved ones, those who are detained through the 287(g) are often **transferred to detention centers that are rampant with constitutional and human rights abuses.**²⁴ In Georgia alone, four immigrants have died in immigration detention centers since 2017, two of whom by suicide.²⁵
 - Children of parents who are detained and/or deported also face grave consequences. According to the Georgia Budget and Policy Institute, about 226,000 children in Georgia live in a home with at least one undocumented adult.²⁶ This results in children facing:
 - I) *Psychological Distress*
 - Studies show that following detention and/or deportation of a parent, a child's risk of depression, anxiety, and severe psychological distress increases.²⁷ A study showed that Latino children who have at least one parent who is detained or deported have higher post-traumatic stress disorder symptoms.²⁸
 - II) *Financial Harm*
 - National research indicates that deporting an undocumented parent can reduce household income by as much as 70%.²⁹
 - III) *Overall Harm*
 - A national study showed that in 2011, about 5,000 U.S. citizen children in foster care had a detained or deported parent.³⁰
 - Another study found that the number of Latino children enrolled in public schools decreased greatly in localities with 287(g) programs.³¹

²¹ https://www.ilrc.org/sites/default/files/resources/ilrc_287g_report_3p-ar_final-v2.pdf.

²² https://www.ilrc.org/sites/default/files/resources/ilrc_287g_report_3p-ar_final-v2.pdf; See, e.g., *Id.*; *Abriq v. Hall*, 295 F. Supp. 3d 874, 881-882 (M.D. Tenn.); *Mercado v. Dallas County*, 2017 U.S. Dist. LEXIS 5785, *20; *Lopez-Aguilar v. Marion County Sheriff's Dep't*, 2017 U.S. Dist. LEXIS 199543, *30; *Orellana v. Nobles Cty.*, 230 F. Supp. 3d 934, 944 (D. Minn. 2017); *Morales v. Chadbourne*, 793 F.3d 208, 215 (1st Cir. 2015); *Miranda-Olivares v. Clackamas Cnty.*, No. 12-cv-02317, 2014 WL 1414305, at *10 (D. Or. Apr. 11, 2014); *Buquer v. City of Indianapolis*, 2013 WL 1332158, at *10 (S.D. Ind. Mar. 29, 2013).

²³ https://www.aclu.org/files/inthumanrights/immigrantsrights/asset_upload_file104_41281.pdf; <https://www.aclu.org/other/287g-agreements>; <https://www.albanylaw.edu/centers/government-law-center/Immigration/explainers/Pages/When-Local-Law-Enforcement-Officers-Become-ICE-Deputies-287g-Agreements.aspx>.

²⁴ https://projectsouth.org/wp-content/uploads/2017/06/Imprisoned_Justice_Report-1.pdf.

²⁵ <https://www.nbcnews.com/politics/immigration/22-immigrants-died-ice-detention-centers-during-past-2-years-n954781>; <https://theintercept.com/2018/10/08/ice-detention-suicide-solitary-confinement/>; <https://www.motherjones.com/politics/2018/11/corecivic-immigration-detention-suicide-investigation/>.

²⁶ https://gbpi.org/2018/voluntary-immigration-enforcement-a-costly-choice-for-georgia-communities/#_edn2.

²⁷ <https://www.americanimmigrationcouncil.org/research/us-citizen-children-impacted-immigration-enforcement>.

²⁸ <https://americanimmigrationcouncil.org/research/us-citizen-children-impacted-immigration-enforcement>.

²⁹ https://gbpi.org/2018/voluntary-immigration-enforcement-a-costly-choice-for-georgia-communities/#_edn42.

³⁰ <https://www.americanimmigrationcouncil.org/research/us-citizen-children-impacted-immigration-enforcement>.

³¹ <https://www.americanprogress.org/issues/immigration/news/2019/05/16/469871/controversial-ice-program-decision-facing-localities-june/>.