

BROWN

is not a crime



★ **STOP 287g**
Racial Profiling

Terror and Isolation in Cobb

How Unchecked Police Power under 287(g)
Has Torn Families Apart and Threatened Public Safety



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People say 287(g) is attrition through enforcement; when in reality, 287(g) creates isolation through enforcement. It causes people to live in the shadows, to interact with mainstream society less, to lock their doors and stay at home, and certainly not learn English or assimilate. That's of no benefit to anybody.

--Attorney Jamie Hernan

Published October 2009

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ACKNOWLEDEMENTS

The ACLU Foundation of Georgia would like to give thanks to the community advocates and attorneys who provided us with invaluable information and made this project possible, including Jamie Hernan; Aaron Ortiz; Rich Pellegrino; P.J. Edwards; and Adelina Nicholls. We are especially grateful to Ms. Nicholls for helping to arrange the interviews with community members. We would also like to thank Atlantans Building Leadership for Empowerment (ABLE) for co-hosting with us an anti-racial profiling forum in Cobb County on September 27, 2009. Special gratitude is owed to community members who generously provided us with their testimonies, often recounting painful episodes. We would also like to thank Alexis Dalmat for her help with design of the report. Finally, special gratitude is owed to all the law students who researched, interviewed, drafted, and participated in this human rights documentation project including Natasha El-Sergany, Serene Hawasli-Kashlan, Giovanni Diaz, Jack Morse, Ali Sabetghadam, Leila Mehrizi, and the students enrolled in Professor Joe Rosen's course at the John Marshall Law School in spring 2008.

PHOTOGRAPHY CREDITS

Front Cover: Cesar, <http://www.rvltndesign.com>

Photos on pages 5, 6, 7, 8, 11, 14, 16: Drena Brown and Azadeh Shahshahani, human rights vigil in front of the Cobb County Detention Center, October 14, 2008.

Photo on page 9: <http://filipsagnoli.files.wordpress.com/2008/10/racial-profiling-4.gif>

THE AMERICAN CIVIL LIBERTIES UNION OF GEORGIA's mission is to advance the cause of civil liberties in Georgia, with emphasis on the rights of free speech, free press, free assembly, freedom of religion, due process of law and to take all legitimate action in the furtherance of such purposes without political partisanship.

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Introduction and Executive Summary

The Cobb County Sheriff's Office is one of seventy-seven state and local law enforcement agencies across the country and one of five agencies in Georgia that are involved in a program known as 287(g),ⁱ made possible through section 287(g) of the Immigration and Nationality Act (INA)ⁱⁱ. The 287(g) program allows local law enforcement representatives to act as immigration officers and participate in enforcement of federal civil immigration laws,ⁱⁱⁱ per a Memorandum of Agreement (MOA) with the Department of Homeland Security Immigration and Customs and Enforcement (ICE).

Though initially intended as a measure to combat violent crime and other felonies such as gang activity and drug trafficking, 287(g) agreements have come to undermine police work as immigrant communities, fearful of being deported and leery of local, de facto immigration officers, hesitate to report crime.^{iv} The Major Cities Chiefs Association and the Police Foundation have both found that participating in 287(g) programs has harmed community policing efforts.^v In addition, law enforcement agencies that reallocate limited resources towards non-violent crimes, such as driving without a license or lack of insurance, may have scarce means left with which to combat crimes of violence and other felonies.^{vi}

The 287(g) program has also encouraged and served as a justification for racial profiling and human rights violations by some local enforcement officers acting as immigration agents. Across the country, there have been several well-documented instances of 287(g)-related racial profiling. Some actions of local law enforcement have even prompted federal investigations and lawsuits. In Maricopa County, Arizona, Sheriff Joe Arpaio was given "the largest and most comprehensive 287(g) contract in the nation."^{vii} With these added powers, he rounded up large numbers of immigrants, often without probable cause, launching a "criminal illegal alien" crackdown which caused widespread terror in Maricopa County.^{viii} In August 2009, the ACLU of Arizona filed a lawsuit against Arpaio's office, for picking up a son driving his father to work and detaining them for hours without probable cause.^{ix} Despite showing the arresting officers proof of their legal presence in the U.S., the father, a legal permanent resident, and the son, a U.S. citizen, were taken to a detention center after being picked up for what they thought was a routine traffic stop.^x There they were denied food and water and access to a restroom for several hours.^{xi} In addition, the Justice Department started an investigation against Sheriff Joe Arpaio in March 2009 for possible civil rights violations, including racial profiling and unlawful search and seizure, while exercising immigration enforcement under 287(g).^{xii}

There are disturbing indications suggesting that race may be a guiding factor in determining in which jurisdictions 287(g)

agreements continue to be put into effect.^{xiii} ICE often deputizes politicians (mostly sheriffs) “after they champion anti-immigrant agendas.”^{xiv} Almost eighty percent of 287(g) agreements have been signed with jurisdictions in the South, and eighty-seven percent of the states and localities signing on with ICE had a higher rate of Latino population growth than the national average.^{xv} Such figures seem to support the view that 287(g) is propelled by race and not by crime.^{xvi}

Although widely criticized in recent years, the proliferation of 287(g) programs continues into the new administration. On July 10, 2009, Department of Homeland Security Secretary Janet Napolitano announced that her agency intends to implement the program in 11 new jurisdictions, including Gwinnett County in Georgia.^{xvii} Many human rights organizations were appalled to learn that 287(g) will grow, despite the fact it is widely regarded as a “failed Bush experiment,” which has resulted in “the widespread use of pretextual traffic stops, racially motivated questioning, and unconstitutional searches and seizures primarily in communities of color.”^{xviii}

The minor changes in the program announced by the Department of Homeland Security in July 2009 make no serious attempt at discouraging profiling or reducing its negative impact on public safety. In a side-by-side comparison of the old and new memoranda of agreement, the ACLU noted both the failure of the new MOAs to fix 287(g) as well as new problematic facets of the agreement.^{xix} The new MOA provides no meaningful mechanisms to prevent new jurisdictions from continuing the legacy of racial profiling

for which 287(g) has become infamous across the country. Although the new agreement purports to encourage deputized agents to enhance the safety of the community by properly focusing resources on dangerous crime, the language has no distinguishable operative effect to ensure that such an objective will be enforced.

Among the most troubling parts of the new agreement are the new powers granted to task force officers, including the authority to execute search warrants and arrest warrants.

In addition, the new MOA actually takes a step backwards especially in the area of transparency, as it attempts to further shield 287(g) from public scrutiny by declaring that

documents related to 287(g) are no longer public records.

Overall, the new agreement only superficially addresses the racial profiling pitfalls of the old agreements, and shrouds the program and details of its implementation in greater secrecy than ever before seen in the already tainted history of 287(g).

The Cobb County Sheriff’s Office entered into an MOA with the Department of



Homeland Security to participate in the 287(g) program on February 13, 2007. The MOA authorized 12 sheriff deputies within the Cobb County Sheriff's Department who have gone through the ICE training to perform immigration screens of any person arrested and brought to the Cobb County jail. Additionally, per an agreement between the Cobb Sheriff's Office and ICE known as the Inter-Governmental Service Agreement (IGSA), the jail^{xx} is permitted to hold people believed to be immigration violators for up to seventy-two hours before they are transferred to ICE custody.

As has happened elsewhere where the program has been implemented, Cobb officers have misused the authority granted to them under the agreement and engaged in racial profiling, resulting in the propagation of widespread fear and mistrust towards law enforcement within immigrant communities in Cobb County, specifically the Latino community. Interviews with community members and advocates have shown that Cobb County residents who appear to be foreign-born have been subjected to rampant racial profiling and are routinely picked up by the police for minor or non-existent violations. Furthermore, many immigrants in Cobb County are afraid to call the police for help, a fear exploited by perpetrators of violent crimes and robberies who know they will not face repercussions if they attack immigrants. Families have been torn apart as people are arrested on their way to conduct everyday business, leaving many wary of leaving their homes. As immigrants feel that they cannot trust local law enforcement, even to report crime, a public safety crisis has ensued for citizens and non-citizens alike.

In Cobb, members of the immigrant community live their daily lives in terror as Cobb law enforcement and jail personnel abuse the power afforded to them by their contract with ICE. Cobb County law enforcement agents are committing egregious Constitutional and human rights violations under the cloak of federal civil immigration law enforcement.

There is no meaningful check in place to ensure that local law enforcement do not abuse the program by intimidating and racially profiling immigrant communities in Cobb County. A Government Accountability Office (GAO) investigation earlier this year found that ICE was not exercising proper oversight over local or state agencies. This problem is compounded in Georgia, as there is currently no state legislation banning racial profiling and mandating accountability and transparency for law enforcement. In addition, complaint mechanisms provided in the MOA have not been at all publicized in Cobb County and community members are unaware of their existence.



Anti-immigrant activists champion nativist attitudes in Cobb County. The sign held by the man on the right reads: "It is My Land."

As interviews with community members and advocates indicate that law enforcement in Cobb have abused the 287(g) power by engaging in racial profiling

and human rights violations and because 287(g) has led to an atmosphere of terror and a less safer community for all residents of Cobb County, the ACLU of Georgia strongly urges both Cobb County and ICE not to renew the 287(g) agreement. If the program is to continue, local, state, and federal authorities need to create meaningful mechanisms for accountability and oversight.

Purpose of the ACLU of Georgia Human Rights Report and Sources of Information

The primary purpose of this report is to show the human impact of 287(g) and the impact on community safety in Cobb County. As such, the primary source of information for this report is interviews with community members who have been directly affected by the implementation of 287(g) as well as community advocates and attorneys who interact on a daily basis with immigrant communities in Cobb County and have born witness to its impact.

Dozens of community members in Cobb County were interviewed for this report. The testimony of ten of them is featured here. Only first names are used in this report in order to protect the privacy of the interviewees.

The advocates and attorneys interviewed for this report include: Adelina Nicholls, Executive Director of the Georgia Latino

Alliance for Human Rights (GLAHR); Jamie Hernan, attorney and Managing Partner, Hernan, Taylor & Lee; Aaron Ortiz, General Manager, Hernan, Taylor & Lee; Rich Pellegrino, Executive Director of Cobb Immigrant Alliance; and P.J. Edwards, a longtime resident of Cobb County as well as an active member of St. Thomas the Apostle Church in Smyrna.

A secondary source of information for this report is records provided by the Cobb County Sheriff's Office per an ACLU of Georgia Open Records Request.

Policing Run Amok: Cobb County Law Enforcement and Jail Personnel Routinely Abuse their Power under 287(g)

We had someone call us. He was arrested for false ID. He was walking down the street. A police officer came up to him and asked for his papers. They said they were fake and they arrested him. We do not live in a police state.^{xxi}

--Jamie Hernan,
Attorney

Since the 287(g) Agreement was implemented in Cobb, immigrant communities and specifically Latinos have found themselves



subjected to meritless traffic stops and baseless arrests. In 2008, the Cobb County jail processed 3,180 inmates for ICE detention. Of those, 2,180 were arrested for traffic offenses--almost 69% of the people held on ICE detainers by Cobb officials. This alarming trend has continued into this year: in February and January of 2009, of the 434 people held in Cobb County on ICE detainers, 255 were arrested on non-DUI traffic offenses. Also troubling is the fact that the reasons provided for arrest were violations that the police could discover only after pulling over a driver, such as driving without a license or insurance.^{xxii}

Aaron Ortiz has watched as Cobb County resources have been wasted to apprehend otherwise innocent people on tenuous traffic charges. According to Ortiz, in some instances, people whom the police simply presume do not have a license are stopped for no other reason.^{xxiii}

Watching the disappearance of honest, hard-working people into detention for minor violations such as broken tail lights and tinted windows^{xxiv} has had an enormously negative impact on the faith of the immigrant community in the fairness of the criminal justice system for Latino or foreign-appearing residents, says Ortiz.



While one local community organization in particular, the Georgia Latino Alliance for Human Rights (GLAHR), has made great strides to circulate information about

the rights of the Latino community through a Know Your Rights Campaign, Executive Director Adelina Nicholls feels that great needs remain. Nicholls says that her organization has been inundated with referrals since the inception of the 287(g) program, reporting “families being separated, fear of law enforcement officials, questionable practices in Cobb County regarding the payment of bond money, and possible racial profiling of the Latino community by local law enforcement agencies.” In fact, the fear associated with 287(g) has been so abundant that in the words of Nicholls, “community members would rather move away from Cobb County than risk a 287(g) stop.”^{xxv}



“Community members would rather move away from Cobb County than risk a 287(g) stop.”
Adelina Nicholls

Latinos Targeted on Cobb County Roads

“It was obvious he pulled me over because of how I looked”

On June 22, 2009, around 8 p.m., Edgar^{xxvi} was on the way home from his girlfriend’s house, driving on Windy Hill Road, a business and commercial area of Cobb County. He was stopped at a Quik-Trip gas station by a Cobb County police officer who

said Edgar had crossed the white line (“Failure to Maintain Lane”). However, Edgar believes there was a different reason for the stop: “The officer saw me through the car window when he exited the highway onto Windy Hill Road. He was behind the car behind me. When I pulled into a gas station, the officer kept driving down Windy Hill. He then made a U-turn at the next light and followed me into the Quik-Trip parking lot. It was obvious that he pulled me over because of how I looked.”

A Young Mother Encounters Racial Profiling in Cobb

A 24-year-old mother in Cobb County, Rubi,^{xxvii} now knows that she should avoid driving at all costs, and only goes out for emergencies or to take her 6-month old child to the doctor. “No one is safe,” she says.

Driving home alone from her mother’s house one day, Rubi was followed by a patrol car into Cobb County around four in the afternoon on Highway 285. The police car pulled her over and an officer told her she was being stopped for an expired tag and registration. However, Rubi feels she was targeted for having dark skin and a Latina appearance, as the officer had been following her for “a very long time.”

Rubi was subsequently arrested for an expired tag and driving without a license. She had difficulty communicating with the officers and could not understand their instructions. The police searched her car without seeking her

consent—in fact, she was already in the police car by the time the officers began to search her vehicle. The handcuffs placed on her were too tight, leaving bruises on her wrists by the time they got to the station. When she tried to talk to the officers, they would not answer her complaints or any questions about what was happening to her. Instead, on the way to the station the two officers who arrested her were laughing and carrying on a conversation while she cried in the backseat.

Even in jail, Rubi was not offered an interpreter by the officers. She was detained for three days at the jail before she was told she could contact her consulate.

Officers Target Neighborhoods Frequented by Latinos

On May 19, 2009, on his way to completing a construction job, Gabriel’s^{xxviii} car was stopped around 4 p.m. at a residential neighborhood close to Rocky Mountain Road, an area known to be targeted by county police.

Approaching a stop sign, Gabriel was extra careful to make a complete stop. But he was nonetheless pulled over by two Cobb County policemen on motorcycles. The officers did not tell him why they were stopping him, but later issued him a ticket for an improper stop. Before being pulled over, Gabriel had observed several cars carrying drivers and passengers with Caucasian appearance



passing through the stop sign without making complete stops. The officers only reacted when they saw him pass.

One of the officers who approached him kept trying to speak to him in Spanish. Gabriel kept telling the officer that he spoke English just fine. This angered the officer. Gabriel was asked to exit his car and the officers searched his car without seeking his consent. Gabriel was subsequently arrested because he had no driver's license. He was never informed of his right to a lawyer, to file a complaint, or to contact his consular office about his arrest or detention.

When asked whether he felt the officers treated him respectfully, Gabriel answered: "No. The first officer I came in contact with was pretty rough. He hit my head when he tried to pull my hands around the back to put the handcuffs on. I kept telling the officer to calm down because I had no intention to run. I already knew I was going to jail and didn't want to make the situation any worse."

Gabriel continued: "the officer in the patrol car who arrested me was really nice. He took off my handcuffs to transport me to the jail. Upon arrival, a sheriff deputy at the jail asked the Cobb Police officer why he didn't have me in handcuffs. The officer replied that he didn't feel it was necessary. The two officers began to argue about this. I heard the sheriff deputy say really insulting things about me. The Cobb officer told the sheriff deputy to be quiet because I spoke English. The sheriff deputy then felt embarrassed and reacted by turning to me and telling me not to try anything because he'd 'kick [my] teeth out.'"

Following his arrest, Gabriel's wife paid his bond in the amount of \$2,000 and he was

released. He is currently in removal proceedings but is still living in Cobb. He now avoids certain areas due to police surveillance and harassment, because he wants to avoid arrest again. And he is still working in Cobb because he feels he has no choice and needs to feed his family. Asked whether he would be reluctant to call the police, he says, "Yes. I fear the police more than the criminals that might rob me."

"I fear the police more than the criminals that might rob me." Gabriel

Family Terrorized on the Way Home from an Outing to the Park

A young Mexican couple, Joanna and Federico^{xxix}, were on their way home from a visit of the local park with their two young children, when they became involved in a car accident. Two Cobb County police officers asked Federico for his driver's license, which he does not possess due to his undocumented status. The officer then asked everyone to get out of the car and arrested Joanna's husband. They were detained for several hours, but were eventually released. Now Joanna says that she avoids driving in general and she has stopped going to Mexican restaurants to avoid police surveillance and harassment. She is even reluctant to call the police because of her immigration status. Once, her kitchen caught on fire and she "was determined to put it out myself so I would not have to call 911."

"Once, Joanna's kitchen caught on fire and she 'was determined to put it out myself so I would not have to call 911.'"

Arrested for an Expired Tag

Edi^{xxx} has lived in the United States for around 10 years. He was stopped while driving in a residential area of Cobb County, near Terrell Mill Road and Johnsons Ferry Road. Two Sheriff's department officers stopped him for an expired tag on his license plate. Although the tag renewal had been paid for, the new tag not yet received. He believes that the real reason he was stopped was because of his ethnicity. The



officers asked him if he spoke English and he told him that he did not. The officer also asked him what country he is from and asked about his immigration status. The police officer also questioned him about the immigration status of his wife and two children, who were also in the car with him. The officer asked all of them to get out of the car and arrested Edi. Edi said that the police treated him "disrespectfully because they were laughing, being rude, and being overall aggressive with him and his family." Edi says that he does not feel safe in his community and he avoids areas where there are large populations of Mexicans/Latinos, such as Smyrna and Marietta, because of police surveillance and

harassment. He feels that 287(g) facilitates prejudice and racial profiling in Cobb County.

A Father Is Deported because of a Traffic Violation

Rogerio's girlfriend^{xxxii} is very fearful of the 287(g) power given to the police because her boyfriend, father of her two young children, was deported to Mexico – targeted simply for driving on a closed road without a driver's license. Rogerio formerly lived in Smyrna, where he worked in construction for nine years.

On July 27, 2007, while he was leaving work at around 9:42 p.m., Rogerio drove on a closed road in a residential area. An officer with the Cobb County Sheriff Office stopped him. Before even asking for his driver's license, the officer questioned Rogerio about his immigration status and whether he had his alien registration card, visa, or passport. Subsequently, the officer arrested Rogerio. Rogerio was then detained at the Cobb jail, without being informed about his right to contact his consular office. He was then transferred to ICE custody and deported to Mexico in September. His girlfriend does not feel safe in Cobb County any more. She has avoided driving in certain areas because of police surveillance and harassment. 287(g) makes her feel unsafe and she believes that it is not the job of local police to enforce immigration laws.

Targeted Because of a Mal-Functioning Brake Light

Federico^{xxxii} has been stopped while driving an automobile many times in Cobb County and is aware of many other Latinos that have been stopped in Cobb for no good

reason. Federico was most recently stopped in Cobb County on a Saturday afternoon, while driving home with his family after a trip to the park. Cobb County officers pulled him over because his brake light was not properly functioning. The officers asked Federico if he spoke English; he replied that he did not. Federico requested for the officer to address him in Spanish, but the officer did not provide him with an interpreter. The officer asked him for his driver's license, which he did not have. The officer then requested that Federico get out of the car and conducted a search without his consent.

Subsequently, the officer arrested him and threatened Federico that he was going to call ICE and that he would have him deported. In detention, the officers did not inform him about his right to contact his consular office about his arrest. Federico says that the jail personnel treated him badly. They had three tuberculosis exams administered on him in one day. Federico spent 18 days in jail. It took \$750 to get him out of the Cobb County Jail. Federico currently avoids certain areas in Cobb County because of police surveillance.

A Family Torn Apart

Sharon's^{xxxiii} husband, Angel, was driving to the bank one morning when a police officer with the Marietta Police Department pulled him over for an incomplete stop at a stop sign. Sharon believes that he was stopped "because he was Hispanic and because he was alone." The Marietta police officer then asked him for his driver's license, which he did not have due to his undocumented status. The police officer arrested Angel and took him to the Cobb

County jail. Sharon attempted to get her husband out on bond. She paid \$500, but the Cobb County jail officials informed Sharon that there was an ICE detainer on him and that he could not be released. Subsequently, he was transferred to the Atlanta City Detention Center and is currently detained at the Stewart Detention Center. Sharon desperately awaits an opportunity to help release her husband. Sharon is an American citizen who is physically disabled and who "depended on [her] husband for everything." Sharon and Angel recently had to "celebrate" their 7-year wedding anniversary apart; their only means of contact was a phone call by Angel from the Stewart Detention Center.

Beyond Traffic Stops: No Safe Space for Latinos in Cobb

Police in Cobb have increasingly wielded 287(g) power in other spheres, leading to intimidation of the Latino community. Even the church has proven no sanctuary in Cobb County. One Sunday in November 2007, the Cobb Police went inside a Latino Evangelical Church during a service to arrest an immigrant for a minor violation.^{xxxiv} The officers burst into the doors of the building in the middle of the service, evoking the chaos of a large-scale raid. The episode was terrifying for the people in the church, who had no idea what was happening, or who the police were after.^{xxxv}

Increasingly, Latinos in Cobb County feel as if there is no safe space for them. As PJ Edwards, a long-time Cobb resident, put it, "fear and anxiety among the Latino

community in Cobb County has been very high since the inception of 287(g).^{xxxvi}

Shopping While Latino?

A young man named Jonathan^{xxxvii} was shopping at Macy's for jewelry for his girlfriend when he started being followed by a security guard. Without ever explaining why he was detaining Jonathan, the guard then took him to a room and confined him there until the police arrived and arrested him. The police officer also did not say why Jonathan was being detained, never read him his rights, and did not offer him an interpreter.

Jonathan was charged with loitering and the bond was set at around \$1,000.

“Fear and anxiety among the Latino community in Cobb County has been very high since the inception of 287(g).”

PJ Edwards

However, when Jonathan's brother came to pay the bond, the deputies at the jail said that he could not post bond, because Jonathan was about to be deported. Jonathan remained in Cobb for three days before being transferred to the Stewart Detention Center. He then spent over 90 days in immigration detention before being deported to Guatemala.

As a telling endnote to Jonathan's story, his original loitering charge was dismissed by the district attorney without a hearing.

Jonathan's brother is now afraid to leave his house. He does not drive anywhere but to work. He says he fears for his family's safety. Life changed dramatically for his

family after his brother was deported; they live a very reclusive life and now feel even more isolated and afraid of the seemingly unlimited power of the police to arrest a Latino person for any or no reason at all.

287(g) Comes Knocking on the Front Door

Driving to church in February 2009, Alejandra^{xxxviii} and her family were hit by another car. The Austell^{xxxix} Police and medical attention soon arrived on the scene of the accident. The officer only spoke to Alejandra once and asked her for identification. She gave him her “Consular Matrícula” before she got into the ambulance with her children. The officer issued no citations and only took down their address. They asked nothing about her immigration status at that time.

Alejandra's husband was subsequently arrested, transferred to the Stewart Detention Center, and deported.

Two weeks after the accident, Alejandra heard pounding on the front door of their home. Officers from the Cobb County Sheriff's Office were at the door. Alejandra and her sister-in-law, Patricia, did not answer the door at first. The pounding became louder and the officers started to yell for them to answer the door. After about fifteen minutes, Patricia answered the door and two police officers, a man and a woman, walked in without being invited. They asked for Alejandra, and then asked if she was in the country illegally. They then said, “You know you are not welcome here in the U.S.” and told Alejandra she had to go with them.

Patricia attempted to find out why and where they were taking Alejandra and what she had done wrong, but they would not

answer and started to yell at her to leave them alone. Once they had Alejandra in the patrol car, the female police officer told Patricia that she had an order to arrest Alejandra for “obstruction.” However, an arrest warrant was never shown.

They drove Alejandra to a gas station where she was transferred to an Austell Police patrol car, which then took her to the Cobb County jail. There, she was taken to a small room and given a piece of paper that had three choices, but one was crossed out so that she could not select it. The option that was crossed out was to have a hearing before an immigration judge. They told her to select “Voluntary Departure” and made her sign the form. Alejandra was subsequently taken to the Etowah Detention Center in Alabama, leaving behind three children under the age 10.

Family of a deported man is now afraid of the seemingly unlimited power of the police to arrest a Latino person for any or no reason at all.

Abuses in Detention

In addition to racial profiling, Cobb County has misused its 287(g) authority to detain immigrants unnecessarily, according to Jamie Hernan, an immigration attorney who has represented many immigrants caught up in 287(g) in Cobb County.^{xi} Following an arrest, individuals typically have a right to post bond, an action that should trigger their release from the local jail.^{xii} According to Hernan, at the early stages of implementation, jail officials in Cobb County routinely denied detainees bond (and

release), thus allowing the officials time to place immigration holds on the detainees in an effort to process them for deportation. Even when detainees were allowed to post bond, jail officials continued to detain the individuals at the Cobb jail and only released them when habeas actions were filed. This was before there was ever an IGSA between Cobb and ICE, allowing Cobb to hold detainees for 72 hours.^{xiii}

Prolonged detention and bond denials

After implementation of 287(g) in Cobb County, detainees at the Cobb jail were given different information and accorded different treatment based on race or national origin when it came to posting bond, according to Jamie Hernan.^{xiii} Jail personnel would routinely refuse families who wanted to pay a bond for a foreign-appearing detainee--saying that they were holding the person for an “immigration investigation,” a term which does not exist under the law. In case of an actual immigration hold, ICE has 48 hours to release a charging document for the detainee to be transferred to immigration custody,^{xiv} or the detainee must be released after posting bond. This prompted attorneys, such as Hernan, to file Writs of Mandamus, or if the detainee had already paid the bond, Writs of habeas corpus, securing either the detainee’s release upon



the service of the petition or the detainee's transfer into immigration custody. Hernan's law firm had to file several Habeas petitions in federal court.

Detainees were also misinformed about whether or not they were allowed to post bond. Hernan believes this was to "buy time" for the Cobb officers to conduct the so-called "immigration investigations," which meant just long enough for them to get an immigration detainer-- regardless of whether or not the detainee posted bond.^{xlv}

A separate problem also arose for immigrants who were transferred to ICE custody: detainees who were deported (or detained by ICE) as a result of their subsequent immigration proceedings often missed their court dates. Bond forfeiture would be ordered against the sureties of their bonds, and bench warrants would be issued against the detainees. Judges were not sympathetic to the fact that interference by federal immigration authorities had caused the defendant to miss their court proceedings; and the detainees, or deported defendants, were further punished as a result.^{xlvi}

A new Georgia state house bill^{xlvii} which has recently gone into effect promises that deported persons who miss their court appearances as a result of being out of the county will not be further penalized with bond forfeiture (and presumably a bench warrant); however, the law is still unclear about repercussions for people who miss their court appearances due to immigration detention. This is problematic, as some detainees report that they are actively denied the ability to appear in court by ICE detention personnel, or they are simply

uninformed of the date and time at which they are supposed to show up.

Overcrowding and lack of due process in detention

Jamie Hernan describes the "chaos" following the implementation of 287(g) in the Cobb County jail, as the jail was ill-equipped to handle such a large influx of immigrants picked up for minor violations. Detainees slept on the floors of crowded cells and were denied medical care. "The scale of the violations at the Cobb jail was so massive that we were talking about bringing in international human rights aid," says Hernan.^{xlviii}

Problems at the Cobb jail are also heightened by a lack of interpreters available to facilitate communication between detainees and jail personnel. Many people are coerced to sign documents they do not understand, even agreeing to voluntary departure without ever consulting an immigration attorney, an action which effectively eliminates any chance to challenge removal proceedings in the future. Jail personnel also fail to make detainees aware of their rights to contact their consulates or to file a complaint if they have been mistreated by law enforcement.^{xlix} Without immigration counsel to properly explain the immigration consequences of the arrest, detainees at the Cobb jail and their families are often left in the dark as to what would happen to them next.



The Opposite Intended Effect of 287(g): Diminished Public Safety as Community Trust in the Police Disappears

People coming from countries with corrupt police forces [say]: 'I'm going home. It's worse here than it is at home.' They're not talking about the economic situation; they're not talking about being undocumented; they're talking about not being able to trust the police. !

--Jamie Hernan, Attorney

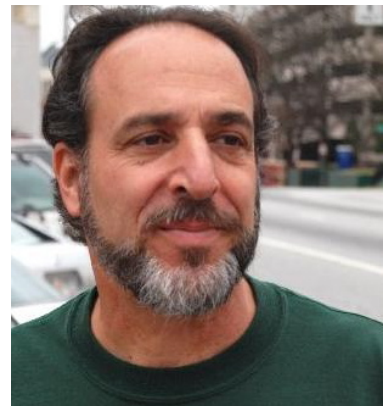
As a result of 287(g) implementation in Cobb County, there has been a widespread increase in fear to report crime as well as mistrust of law enforcement. Members of the Latino community who have experienced racial profiling firsthand, or who have heard about the treatment of their family, friends, and neighbors at the hands of law enforcement, feel afraid to seek assistance from the police, even when they are the victims of crimes themselves, a factor which poses a public safety threat to all Cobb county residents. This is the direct opposite to the intent of the program which was to enhance the safety and security of communities by addressing serious criminal activity.

Misdirecting resources and energy toward targeting a particular ethnic community destroys trust between immigrant communities and the police, as shown by Richard Pellegrino's experience. Prior to 287(g), Rich Pellegrino worked with

immigrant communities to prevent proliferation of gangs through the County Police Neighborhood Crime Prevention Unit.^{li} The Crime Prevention Unit became very active after a series of attacks, robberies, home invasions, and murders of Latino immigrants. Frequent community meetings were held in which county police participated in order to break down mistrust. The police tried hard to separate themselves from the Sheriff's department, especially as 287(g) was in the works. The meetings brought strength to communities --at least two new neighborhood crime watch programs were created as a result. "287(g) broke down all the trust that had developed between immigrants and the police," Pellegrino says. "Before 287(g), people with minor traffic violations could pay their fine or bond and be on their way--now they would surely be deported, or they have the fear of that strong possibility. No one would come to the meetings any longer if the police were present, and they would and will not drive unless they had to go to work."

"The criminals know this and have renewed their attacks on [the immigrant community] which had abated while collaboration was going on between the County Police Neighborhood Crime Prevention Unit and immigrant communities. Crime is up and so is gang formation and recruitment" says Pellegrino.

"In effect, by further marginalizing and pushing



people underground, a whole underworld economy and underworld of crime is incubated---so, 287(g) actually increases crime and lawlessness in the community—this is the opposite intended effect.”

Pellegrino’s contacts in the county police force as well as community organizations have informed him that both reported and unreported crime is on the rise in Cobb County. “[287(g)] emboldens police who already racially profiled people of color, including Latinos, to increase profiling and discrimination even more brazenly,” says Pellegrino.

“287(g) broke down all the trust that had developed between immigrants and the police.” Rich Pellegrino

Overall, 287(g) enforcement, originally intended to rid the community of violent criminals, has instead led to a less safe community for all, as it has sharply eroded relations between immigrant communities and the Cobb County police and Sheriff’s Office.

**Cobb County Police
Violate Constitutional
and Human Rights Law
under the Cloak of
Federal Immigration
Enforcement Authority**

Every person in the United States, including immigrants, is entitled to the protections afforded under the 5th and 14th Amendments of the U.S. Constitution^{lii} as well as fundamental human rights guaranteed to every person regardless of immigration status.

Constitutional Violations

The promise of equal protection under the law is often undermined when it comes to the treatment of immigrant communities in Cobb County, however, where Cobb County residents are being pulled over for little more than appearing Latino and subsequently being subjected to disparate treatment at the jail.

Egregious racial profiling practices and the treatment afforded to immigrants in detention at the jail clearly violates the guarantee of equal protection under the law.

In addition, interviews with community members indicate that Cobb local law enforcement may be violating the Fourth Amendment guarantee against unreasonable searches and seizures by pulling drivers over without reasonable suspicion and conducting vehicle searches without the owners’ consent.

As noted above, detainees have faced denial of due process in detention, as many have had not access to interpreters and have been forced to sign deportation documents without the benefit of counsel or understanding their rights.

Violations of International Human Rights Standards

In addition to constitutional concerns, the manner in which Cobb County implements its 287(g) agreement contravenes provisions of international law that prohibit racial discrimination and arbitrary detention. Cobb's 287(g) officers routinely engage in actions prohibited by the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, both of which are treaties that the United States government has signed and ratified. Cobb law enforcement practice under 287(g) also violates customary international law.

Treaties

According to the Supremacy Clause of Article VI of the U.S. Constitution, U.S. treaties are recognized as the "supreme Law of the Land" alongside the Constitution and U.S. law. Thus, Cobb and other municipalities in Georgia are obligated to adhere to provisions of treaties such as the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

The International Covenant on Civil and Political Rights (ICCPR) protects conventional civil and political rights, including the right to life, liberty and security of person. Article 26 of the ICCPR prohibits discrimination on the grounds of race and color, and Article 9 specifically

forbids arbitrary arrest and detention. Human Rights Committee, the body that is charged with monitoring state party compliance with the ICCPR, has determined that detention for forty-eight hours without judicial review is unreasonably long.^{liii}

Like the ICCPR, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) prohibits discrimination on the grounds of race. Article 2 of the treaty explicitly condemns racial discrimination and obligates parties to eliminate discrimination "in all its forms." Article 2(c) states: "Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists." In addition, Article 5 guarantees the right to equal treatment free from discrimination before tribunals and other judicial organs.

In ratifying ICCPR and CERD, the United States agreed to prohibit all discrimination and guarantee to all persons equal and effective protection against discrimination and unwarranted detention. Through practices such as racial profiling and prolonged detention under 287(g), Cobb County is in effect violating the binding obligations of the U.S. government under treaties.

Customary International Law

Along with treaties, customary international law functions as a primary source of international law.^{liv} Customary international law refers to the law that emerges when countries generally and consistently follow a certain practice out of a sense of

international legal obligation.^{lv} This law emerges from sources such as policy statements, state documents, legislation, court decisions and treaties.^{lvi} Though typically binding only on ratifying states, similar provisions contained within multiple treaties may come to reflect customary international law, which binds all states.

The United States has indicated that the ICCPR, along with its prohibitions on racial profiling and arbitrary detention, comprises customary international law.^{lvii} In addition, there are numerous treaties and other international documents that prohibit discrimination and unwarranted detention, verifying that these acts violate customary international law. Such sources include the Universal Declaration of Human Rights, which states that all people are equal before the law and are entitled to protection of the law without discrimination. The Declaration also states that no one may be subjected to arbitrary arrest or detention. Like the ICCPR, the United States has recognized that the Declaration's prohibitions on racial discrimination and arbitrary detention have achieved the status of customary international law.^{lviii}

In addition, both the American Convention on Human Rights and the American Declaration on the Rights and Duties of Man prohibit racial discrimination as well as arbitrary arrest and imprisonment. The Convention on the Suppression and Punishment of the Crime of Apartheid also prohibits discrimination, and all other major regional human rights treaties prohibit discrimination as well.^{lix}

The sheer number of international sources that prohibit arbitrary detention and

discrimination indicates that these prohibitions have indeed become part of customary international law, which binds the United States. Thus, Georgia and its counties, including Cobb, may not take or endorse actions, programs, or policies that violate these international laws which ban arbitrary detention and racial discrimination. Because Cobb County's implementation of 287(g) propagates both racial profiling and arbitrary detention, Cobb is violating customary international law, just as it is violating treaties to which the United States is a party.

Absence of Accountability and Oversight on State and Federal Levels

There is little or no city or state control over 287(g), and extremely limited oversight by the federal government, including that of ICE itself, to ensure that local law enforcement do not abuse the program by intimidating and racially profiling the immigrant population in Cobb County.

Absence of Oversight and Accountability on the Federal Level

The Government Accountability Office (GAO) released a report in March 2009 on the implementation of 287(g) in counties

throughout the country. The GAO found that one of the main pitfalls of 287(g) in local law enforcement agencies was the conflict between the stated objective of the program and the results of implementation. “ICE officials stated that the objective of the program is to address serious crime, such as narcotics and smuggling committed by removable aliens; however, ICE has not documented this objective in program materials.”^{lx} Also, the GAO report noted that there are no program related documents on how participating agencies are to use their 287(g) authority and ICE has not defined what data should be tracked or how it should be collected and reported.^{lxi} Furthermore, over half of the 29 agencies GAO contacted reported concerns from community members that use of program authority would lead to racial profiling and intimidation by law enforcement officials.^{lxii} In addition, the GAO observed the troubling lack of any meaningful mechanisms to hold agencies to account for carrying out the purpose of the program.^{lxiii}

This lack of accountability clearly carries over to Cobb. In an interview, Colonel Bartlett of the Cobb Sheriff’s Office confirmed that his office has no requirement to share data or statistics with any other institution in Cobb County, including the County Commissioners.^{lxiv} The only requirement was a monthly report to ICE on the number of detainees processed for ICE holds and the types of offenses committed.^{lxv}

As noted above, the proposed “new” 287(g) fails to change any of the fundamental flaws which give local law enforcement unchecked authority to carry out objectives contrary to the original intent of 287(g). The new 287(g) in fact allows for even less

accountability, through eliminating the requirement that law enforcement submit accurate statistical tracking data which could be used to study the success or failure of the program. Under the new agreement, ICE does not require routine data collection of “arrest data above what is entered to enforce” from the law enforcement agency, but is allowed only to request data related to the “circumstances of a particular alien’s arrest.” The steering committee required by the old 287(g) is now replaced by a requirement that “when necessary,” ICE will meet periodically with the law enforcement agency and “may limit the participation of these meetings in regard to non-law enforcement personnel.” This effectively allows ICE and law enforcement to have closed meetings without the oversight or contribution of local community organizations or the general public. Further mystifying the details of 287(g) implementation, the new MOA declares that a great number of 287(g)-related documents will not be considered public records, “requiring agencies to get ICE approval before releasing information about the program.”

Absence of State Legislation Banning Racial Profiling

Lack of oversight at the Federal level is compounded by the absence of accountability mechanisms at the state level, as Georgia is among those states that currently have no legislation to prohibit the practice of racial profiling.^{lxvi} Despite repeated attempts to pass legislation

designed to prevent law enforcement officers from routinely using a person's race or ethnicity as a basis for stopping a person's vehicle, and mandating collection of data upon traffic stops, the Georgia General Assembly has yet to pass such a law providing for a measure of accountability for law enforcement. Accordingly, law enforcement personnel throughout the state may continue to stop individuals based solely on their race or ethnicity. This is of particular concern in Cobb County, where as reported above, officers engage in practices that disproportionately target people of color for investigations and enforcement.

Absence of Other Accountability Mechanisms

In addition, the Cobb County Sheriff's Department and ICE have not sufficiently publicized the complaint mechanism for violations of the Cobb County Memorandum of Agreement with ICE. As such, this mechanism for recourse is not being utilized by community members.

Given the particular vulnerability of members of the immigrant community, they often feel powerless to challenge laws and practices that disregard their rights. As PJ Edwards observes, once the wheels of the deportation process begin to turn, there is little an undocumented person feels she can do to challenge the individual steps leading to her removal. 287(g) as implemented in Cobb appears to operate precisely upon this premise. Indeed, the people most directly impacted, those who

have been deported, have no real ability to hold law enforcement or other officials who have violated their rights accountable through litigation.^{lxvii}

Conclusion: Time to End, Not Mend 287(g)

In late August, 521 organizations across the country, many of which in Georgia, called on the Obama Administration to end 287(g), citing the serious problems associated with the program, including racial profiling.^{lxviii} The groups were recently joined in this demand by the Congressional Hispanic Caucus.^{lxix} In addition, in a recent letter to the Obama administration, the United Nations Committee on the Elimination of Racial Discrimination (CERD) urged the administration and Congress to do more to end racial profiling by reconsidering the 287(g) program.^{lxx}

It is also time for Cobb County to walk away from 287(g).

With more than 5,000 people deported in Cobb County since the beginning of 287(g) implementation,^{lxxi} the enormous impact on the community is palpable. While the premise could in theory aid the county in the widely-supported goal of ridding the county of hardened criminals, the police and Cobb jail personnel have misused the program to arrest and deport untold

number of hard-working members of the community for minor traffic violations, most of whom have never before been charged with a crime.

Families have been torn apart, and communities have learned through witnessing and hearing about illegal, abusive practices not to trust the police. 287(g) has created panic and fear in the Cobb County immigrant community. The police only exacerbate the mistrust and apprehension of the immigrant community towards law enforcement by using scare tactics and practicing overt racial profiling and intimidation. As a result, 287(g) has had the opposite of its intended effect. Broken relations between immigrant groups and the police poses a safety threat to the general public, as evidenced by increased gang activity and a rise in both reported and unreported crime.

Egregious constitutional and international human rights violations have been committed by the Cobb police and jail personnel which could make the county legally liable in domestic courts and prove embarrassing to the United States government in international arenas.

Recommendations

- ICE should *not* renew the MOA with the Cobb County Sheriff's Office; even the "new" standardized 287(g) Agreement leaves room for the same abuses to occur as was the case under the old

287(g).

- Similarly, Cobb County should *not* renew its MOA with ICE; instead of making the community safer, this program has dramatically decreased community safety through diminishing trust between Cobb law enforcement and immigrant communities.

However, if the 287(g) Agreement between ICE and the Cobb County Sheriff's Office is to remain in effect,

- The Cobb County Sheriff's Office and Police Departments need to address the lack of accountability for racial profiling and other police abuses at the local level.
- The Cobb County Sheriff's Office and Police Departments as well as ICE need to ensure that the complaint mechanism in the Memorandum of Agreement is widely publicized and made easily accessible to the public.
- The State of Georgia should adopt anti-racial profiling legislation to send a clear message that targeting Georgia residents based on their race and background is unacceptable and illegal and to provide a measure of accountability for law enforcement.
- ICE needs to exercise greater oversight over the implementation of 287(g) in Cobb County, especially due to the documented pattern of abuse.

Endnotes

- ⁱ *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, Aug. 18, 2008, available at http://www.ice.gov/partners/287g/Section287_g.htm. Last accessed, 10/11/09.
- ⁱⁱ 8 U.S.C. § 1357(g) (2008).
- ⁱⁱⁱ U.S. Immigration and Customs Enforcement (ICE), *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, Aug. 18, 2008, available at http://www.ice.gov/partners/287g/Section287_g.htm; Deborah M. Weissman et al., *The Policies and Politics of Local Immigration Enforcement Laws: 287(g) Program in North Carolina*, Feb. 2009, at 8.
- ^{iv} Jason G. Idilbi, *Local Enforcement of Federal Immigration Law: Should North Carolina Communities Implement 287(g) Authority?*, 86 N.C. L. Rev. 1710, 1729-30 (2008) (“[L]aw enforcement authorities are . . . concerned about undermining the relationship established with the immigrant community and realize that such policies would have a chilling effect on the reporting of crime. . . . [T]he fear that the process of deportation can be triggered for relatively minor infractions such as failure to appear in court for a speeding violation or having an expired driver’s license makes undocumented immigrants distrustful of the entire law enforcement establishment”).
- ^v J. Thomas Manger, *Testimony before the House Committee on Homeland Security: Examining 287(g): The Role of State and Local Law Enforcement in Immigration Law*, at 3-12, available at <http://hsc.house.gov/SiteDocuments/20090304140934-99719.pdf>. Last accessed 10/11/09.
- ^{vi} Idilbi at 1732.
- ^{vii} Justice Strategies report at 37, available at <http://www.justicestrategies.org/2009/local-democracy-ice-why-state-and-local-governments-have-no-business-federal-immigration-law-en>.
- ^{viii} *Id* at 23-24.
- ^{ix} *Lawsuit Charging Sheriff Arpaio Illegally Targeted Latinos in Maricopa County Can Go Forward*, ACLU Press Release, February 11, 2009, available at <http://www.aclu.org/immigrants/gen/38711prs20090211.html>. Last accessed, 10/11/09.
- ^x *Id.*
- ^{xi} *Id.*
- ^{xii} Daniel González, *Arpaio to be investigated over alleged violations*, The Arizona Republic, September 26, 2009, available at <http://www.azcentral.com/arizonarepublic/news/articles/2009/03/11/20090311investigation0311.html>. Last accessed 9/26/09.
- ^{xiii} *Id* at 16.
- ^{xiv} Justice Strategies Report at 18, available at <http://www.justicestrategies.org/2009/local-democracy-ice-why-state-and-local-governments-have-no-business-federal-immigration-law-en>. Last accessed 8/25/09.
- ^{xv} *Id* at 16.
- ^{xvi} *Id.*
- ^{xvii} Statement of Janet Napolitano, Secretary, Department of Homeland Security, Office of the Press Secretary, *Secretary Napolitano Announces New Agreement for State and Local Immigration Enforcement Partnerships & Adds 11 New Agreements*, available at http://www.dhs.gov/ynews/releases/pr_1247246453625.shtm. Last accessed 9/27/09.
- ^{xviii} Letter from Marielena Hincapie, Executive Director, National Immigration Law Center, to Barack Obama, President of the United States (Aug. 25, 2009) available at <http://www.nilc.org/immlawpolicy/LocalLaw/287g-Letter-2009-08-25.pdf>. Last accessed 9/27/09.
- ^{xix} ACLU side-by-side agreement analysis, available at <http://www.aclu.org/immigrants/local/403501gl20090716.html>. Last accessed 8/20/09.
- ^{xx} The Cobb County jail is a facility that holds detainees for “state offenses” and those who are arrested for city ordinance violations in the cities of Austell, Powder Springs, and Marietta.
- ^{xxi} Interview with Jamie Hernan, Attorney at law, in Atlanta, G.A. (June 9, 2009).
- ^{xxii} I.C.E Historical O/R Report provided by the Cobb County Sheriff’s Office pursuant to Open Record Act Request.
- ^{xxiii} Interview with Aaron Ortiz in Atlanta, G.A. (June 9, 2009).
- ^{xxiv} Interview with Aaron Ortiz.

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- ^{xxv} Interview with Adelina Nicholls, Executive Director, Georgia Latino Alliance for Human Rights, in Atlanta, G.A. (May 20, 2009).
- ^{xxvi} Interview with Edgar, in Marietta, G.A. (July 29, 2009).
- ^{xxvii} Interview with Rubi, in Atlanta, G.A. (June 11, 2009).
- ^{xxviii} Interview with Gabriel, in Atlanta, G.A. (June 12, 2009).
- ^{xxix} Interview with Joanna, in Smyrna, G.A. (Sept. 29, 2009).
- ^{xxx} Interview with Edi, in Smyrna, G.A. (Sept. 29, 2009).
- ^{xxxi} Interview with Marie, in Smyrna, G.A. (Sept. 29, 2009).
- ^{xxxii} Interview with Federico, in Smyrna, G.A. (Sept. 29, 2009).
- ^{xxxiii} Interview with Sharon, in Atlanta, G.A. (Oct. 9, 2009).
- ^{xxxiv} Interview with Aaron Ortiz.
- ^{xxxv} *Id.*
- ^{xxxvi} Interview with P.J. Edwards, in Atlanta, G.A. (Sept. 18, 2009).
- ^{xxxvii} Interview with Jonathan, in Austell, G.A. (August 7, 2009).
- ^{xxxviii} Interview with Alejandra, in Austell, G.A. (July 27, 2009).
- ^{xxxix} Austell is a city in Cobb County.
- ^{xl} Interview with Jamie Hernan.
- ^{xli} *Id.*
- ^{xlii} *Id.*
- ^{xliii} *Id.*
- ^{xliv} Cobb County Memorandum of Agreement [between ICE and Cobb County Sheriff's Department and Board of Commissioners], at 3, available at <http://www.ice.gov/doclib/foia/memorandumsofAgreementUnderstanding/cobbcountysheriffsofficeandcobbcountyboardofcommissioners.pdf>. Last accessed, 10/11/09.
- ^{xlv} Interview with Jamie Hernan.
- ^{xlvi} *Id.*
- ^{xlvii} Ga. House Bill 147; Ga. Code Ann., § 17-6-72 (c)(1).
- ^{xlviii} Interview with Jamie Hernan.
- ^{xlix} *Id.*
- ^l *Id.*
- ^{li} Interview with Rich Pellegrino, in Atlanta, G.A. (July 27, 2009).
- ^{lii} *See Plyler v. Doe*, 457 U.S. 202, at 210: “Aliens, even aliens whose presence in this country is unlawful, have long been recognized as ‘persons’ guaranteed due process of law by the Fifth and Fourteenth Amendments.” Citing *Shaughnessy v. Mezei*, 345 U.S. 206, 212 (1953); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896); *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886).
- ^{liii} David Weissbrodt & Connie de la Vega, INTERNATIONAL HUMAN RIGHTS LAW: AN INTRODUCTION, at 63 (2007).
- ^{liv} BLACK’S LAW DICTIONARY 835 (8th ed. 2004); Weissbrodt at 4 (noting that “the principal sources of international law are treaties and custom”).
- ^{lv} Ryan Goodman & Derek Jinks, *Incomplete Internalization and Compliance with Human Rights Law*, 19 Eur. J. Int’l L. 725, 745 (2008); Weissbrodt at 4.
- ^{lvi} BLACK’S LAW DICTIONARY at 109, 138.
- ^{lvii} Richard B. Lillich, *The Growing Importance of Customary International Human Rights Law*, 25 Ga. J. Int’l & Comp. L. 1, 3 (1995/1996) (“In its Memorial to the International Court of Justice in the *Hostages* case, the United States argued that Iran had violated ‘certain fundamental human rights’ of the hostages ‘now reflected, inter alia, in the Charter of the United Nations, the Universal Declaration of Human Rights and corresponding portions of the International Covenant on Civil and Political Rights . . .’ The Court subsequently endorsed this argument in its Judgment.”).
- ^{lviii} W. Kent Davis, *Answering Justice Ginsburg’s Charge that the Constitution is ‘Skimpy’ in Comparison to our International Neighbors: A Comparison of Fundamental Rights in American and Foreign Law*, 39 S. Tex. L. Rev. 951, 977 (1998) (“Even U.S. case law and legal commentaries have recognized that a large number of norms found in the Universal Declaration have achieved customary international law status, such as the prohibitions against torture, arbitrary detention, summary execution, cruel or inhuman treatment, genocide, and systematic racial discrimination”).
- ^{lix} Weissbrodt at 34.
- ^{lx} GOA Report – “*Immigration Enforcement: Better Controls Needed over Program Authorizing State and Local*

Enforcement of Federal Immigration Laws,” January 2009. Last accessed 10/1/09.

^{lxi} *Id.*

^{lxii} *Id.*

^{lxiii} *Id.*

^{lxiv} Interview with Colonel Bartlett, Cobb County Sheriff’s Office, in Marietta, G.A. (April 1, 2009).

^{lxv} *Id.*

^{lxvi} Data Collection Resource Center, *Legislation and Litigation*, available at [http:// www.](http://www.Racialprofilinganalysis.edu/legislation/)

[Racialprofilinganalysis.edu/legislation/](http://www.Racialprofilinganalysis.edu/legislation/). Last accessed 8/20/09.

^{lxvii} Interview with PJ Edwards.

^{lxviii} Letter from Marielena Hincapie, Executive Director, National Immigration Law Center, to Barack Obama, President of the United States (Aug. 25, 2009) available at <http://www.nilc.org/immlawpolicy/LocalLaw/287g-Letter-2009-08-25.pdf>. Last accessed 9/27/09.

^{lxix} Ankit Rastogi, *Government Task Force Pans 287(g)*, ACLU Blog of Rights, October 5, 2009, available at <http://blog.aclu.org/2009/10/05/government-task-force-pans-287g>. Last accessed 10/11/09.

^{lxx} *U.N. Human Rights Body Issues Decisive Observations On Racial Discrimination In U.S.*, ACLU Press Release, October 8, 2009, available at <http://www.aclu.org/intlhumanrights/racialjustice/41259prs20091008.html>. Last accessed, 10/12/09.

^{lxxi} This figure is an estimate provided by Aaron Ortiz.



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