



November 26, 2012

Congressman-Elect John Delaney  
Friends of John Delaney  
P.O. Box 60320  
Potomac, MD 20859

**VIA FIRST CLASS AND ELECTRONIC MAIL**

Dear Congressman-Elect Delaney,

We write on behalf of the undersigned organizations to request a meeting to discuss the 287(g) program in Frederick County, Maryland.

As you may know, the Department of Homeland Security ("DHS") is currently undertaking a review of its 287(g) agreements with 57 law enforcement agencies in 21 states, including Frederick County, Maryland.<sup>1</sup> The agreements were set to expire on or around September 30, 2012, but DHS temporarily extended them for an additional 90 days pending completion of its review.<sup>2</sup> The extension expires in January 2013 for Frederick County. Following the recent, overwhelming support for the Maryland DREAM Act Referendum, we urge you to take this unique opportunity to help bring an end to the 287(g) program in Frederick County.

Frederick County has participated in the 287(g) program since 2008.<sup>3</sup> The program allows state and local law enforcement agencies to enter into an agreement with Immigration and Customs Enforcement ("ICE") in order to enforce immigration law within their jurisdictions. In effect, it turns local law enforcement officers into immigration agents, albeit ones with minimal training and virtually no oversight or accountability.<sup>4</sup> Since its inception, the program has produced countless complaints about abusive police practices, racial profiling, and the deterioration of relationships

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<sup>1</sup> See ICE Extends Agreements Delegating Immigration Authority, *available at* <http://www.aclu.org/immigrants-rights/ice-extends-agreements-delegating-immigration-authority>.

<sup>2</sup> *Id.*

<sup>3</sup> See Fact Sheet: Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act, *available at* <http://www.ice.gov/news/library/factsheets/287g.htm#signed-moa>.

<sup>4</sup> See Randy Capps et al., *Delegation and Divergence: A Study of 287(g) State and Local Immigration Enforcement* 21 (Migration Policy Institute, 2011) [hereinafter "MPI Report"], *available at* <http://www.migrationpolicy.org/pubs/287g-divergence.pdf>; DHS, Office of Inspector General, *The Performance of 287(g) Agreements: Report Update* (Sept. 2010), 10-11, *available at* [http://www.oig.dhs.gov/assets/mgmt/oig\\_10-63\\_mar10.pdf](http://www.oig.dhs.gov/assets/mgmt/oig_10-63_mar10.pdf).

between police and the communities they serve.<sup>5</sup> Frederick County is no exception; indeed, it has developed a reputation for being one of the worst offenders.<sup>6</sup>

Frederick County's Sheriff Jenkins claims that participation in the 287(g) program is about protecting public safety and security.<sup>7</sup> Yet his claim is belied by statistics showing that the program has overwhelmingly resulted in the deportation of individuals apprehended for minor offenses such as traffic violations. Over 80% of all arrests made under the 287(g) program in Frederick County were for low-level offenses, including over 60% for traffic violations.<sup>8</sup> According to the Frederick County Sheriff's Office's own numbers, of the 995 detainees the FCSO has lodged since joining the 287(g) program in 2008, 902—over 90%—were for immigrants arrested for misdemeanor offenses.<sup>9</sup> Community advocates also cite numerous instances of arbitrary and baseless stops of Latino citizens and immigrants by officers of the FCSO,<sup>10</sup> and news reports document complaints of racial profiling by the FCSO.<sup>11</sup> Such incidents are representative of the way in which the 287(g) program has been used in Frederick County, and serve only to exacerbate the sense that its purpose is to harass and intimidate immigrants and persons of color.

In addition to racial profiling, the program undermines community trust in the police and therefore harms law enforcement objectives. Police chiefs across the country, including Montgomery County's Chief Thomas Manger, have criticized the program for

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<sup>5</sup> See, e.g., ACLU of Georgia, *Terror and Isolation in Cobb: How Unchecked Police Power under 287(g) Has Torn Families Apart and Threatened Public Safety* (Oct. 2009), available at [http://www.acluga.org/download\\_file/view\\_inline/1504/260/](http://www.acluga.org/download_file/view_inline/1504/260/); ACLU of North Carolina and Immigration & Human Rights Policy Clinic, University of North Carolina at Chapel Hill, *The Policies and Politics of Local Immigration Laws: 287(g) Program in North Carolina* (Feb. 2009), available at [http://www.acluofnorthcarolina.org/files/287gpolicyreview\\_0.pdf](http://www.acluofnorthcarolina.org/files/287gpolicyreview_0.pdf); MPI Report at 38-47; see also Inter-American Commission on Human Rights, *Report on Immigration in the United States: Detention and Due Process* 66-67, 144 (Dec. 30, 2010), available at <http://cidh.org/pdf%20files/ReportOnImmigrationInTheUnited%20States-DetentionAndDueProcess.pdf>.

<sup>6</sup> See generally MPI Report; see also Katherine Heerbrandt, *Immigration report finds flaws in enforcement program*, Gazette.Net, February 3, 2011, available at [http://ww2.gazette.net/stories/02032011/frednew165956\\_32546.php](http://ww2.gazette.net/stories/02032011/frednew165956_32546.php).

<sup>7</sup> Statement of Sheriff Charles A. Jenkins, Sheriff, Frederick County, Maryland, before the House Committee on Homeland Security, March 4, 2009.

<sup>8</sup> MPI Report at 19, 24.

<sup>9</sup> FCSO 2011 Annual Report at 17, available at [http://frederickcountymd.gov/documents/16/41/FINAL%202011%20Annual%20Report%206%2020%2012\\_201207251046271720.pdf](http://frederickcountymd.gov/documents/16/41/FINAL%202011%20Annual%20Report%206%2020%2012_201207251046271720.pdf). Note that the FCSO does not keep track of how many were actually *convicted* of those charges.

<sup>10</sup> Statement of Antonio Ramirez, Frederick, Maryland Community Advocate, before the Joint Hearing on the Public Safety and Civil Rights Implications of State and Local Enforcement of Federal Immigration Laws, April 2, 2009.

<sup>11</sup> Frederick News Post, Special Sections, Stop Watch, available at [http://www.fredericknewspost.com/sections/special\\_sections/stopwatch/index.htm](http://www.fredericknewspost.com/sections/special_sections/stopwatch/index.htm).

undermining public safety.<sup>12</sup> In Frederick County, the most tangible effect the program has had is a 61% decrease in the noncitizen Latino and Hispanic population since its enactment,<sup>13</sup> and a marked mistrust of police among the Latino community that remains.<sup>14</sup> There is no evidence the program has led to any gains in law enforcement or in public safety.

Maryland has historically been a state that welcomes immigrants, and its immigrant population has increased significantly over the past decade.<sup>15</sup> Immigrants contribute to Maryland's economy and to its culture, and Marylanders do not endorse programs that alienate, racially profile, and harass Latino and immigrant communities. The recent passage of the Maryland DREAM Act—by a wide margin—confirms that Marylanders wish to live in a state that treats all of its residents with equal dignity and respect. The 287(g) program is fundamentally at odds with this approach and does not belong anywhere in Maryland.

At this critical moment in the history of the 287(g) program, we urge you to contact the Secretary of Homeland Security to request that DHS put an end to its 287(g) agreement in Frederick County, Maryland. In order to further discuss this matter, we request a meeting with your office sometime during the weeks of November 26, December 3, or December 10. You can reach us by contacting Sara Love at (410) 889-8550 ext. 129 or Sirine Shebaya at (410) 889-8550 ext. 140.

Thank you for your attention to this matter.

Sincerely,



Sara Love, Public Policy Director, ACLU of Maryland



Sirine Shebaya, Liman Fellow, ACLU of Maryland

**On behalf of:**

American Civil Liberties Union of Maryland

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<sup>12</sup> Statement of Chief J. Thomas Manger, Chairman of the Legislative Committee for the Major Cities Chiefs Association and Chief of Police, Montgomery County Police Department, before the House Committee on Homeland Security, March 4, 2009.

<sup>13</sup> MPI Report at 40; *see also* Katherine Heerbrandt, *Immigration report finds flaws in enforcement program*, Gazette.Net, February 3, 2011, *available at* [http://ww2.gazette.net/stories/02032011/frednew165956\\_32546.php](http://ww2.gazette.net/stories/02032011/frednew165956_32546.php).

<sup>14</sup> MPI Report at 38-47; Statement of Antonio Ramirez, Frederick, Maryland Community Advocate, before the Joint Hearing on the Public Safety and Civil Rights Implications of State and Local Enforcement of Federal Immigration Laws, April 2, 2009.

<sup>15</sup> *See* Liz Farmer, *Hispanics Drive Population Growth in Maryland*, WASHINGTON EXAMINER, February 9, 2001, *available at* <http://washingtonexaminer.com/local/2011/02/hispanics-drive-marylands-population-growth> (immigrant population in Maryland has almost doubled over the past decade).

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Archdiocese of Washington  
Centro de los Derechos del Migrante  
Identity  
Immigration Clinic, University of Maryland  
Carey School of Law (school listed for  
identification purposes only)  
Liz Keyes, Director of the Immigrant Rights  
Clinic, University of Baltimore School of Law  
(school listed for identification purposes only)  
Maryland Immigrant Rights Coalition  
NAACP of Frederick County, Maryland  
NAACP of Maryland  
Public Justice Center  
SEIU 32BJ  
Unitarian Universalists for Social Justice in the  
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AMERICAN CIVIL  
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MARYLAND