



Legislation Details (With Text)

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Res. No. 164

Resolution urging President Obama to put an end to the 287(g) program, an immigration enforcement program that is causing an increase in racial profiling and civil rights abuses in localities throughout the United States.

By Council Members Mark-Viverito, Chin, Dromm, James, Lander, Palma, Reyna, Rodriguez and Williams

Whereas, United States Immigration and Customs Enforcement (ICE) is the largest investigative agency in the Department of Homeland Security (DHS); and

Whereas, ICE, responsible for enforcing federal immigration laws as part of its homeland security mission, works closely with federal, state and local law enforcement agencies; and

Whereas, On September 30, 1996, the Illegal Immigration Reform and Immigrant Responsibility Act was enacted and added section 287(g) to the Immigration and Nationality Act (INA); and

Whereas, Section 287(g) of the INA grants the federal government the authority to enter into written agreements with state and local law enforcement agencies in order to train selected state and local officers to

perform certain functions of an immigration officer relating to the investigation, apprehension or detention of persons who are in the country illegally; and

Whereas, The federal government's use of authority under section 287(g) of the INA has resulted in the establishment of the 287(g) program, currently managed by ICE's Office of State and Local Coordination; and

Whereas, ICE operates the 287(g) program, a component of the ICE ACCESS (Agreements of Cooperation in Communities to Enhance Safety and Security) Program, to provide local law enforcement agencies with the opportunity to work with ICE; and

Whereas, Under the 287(g) program, state and local law enforcement agencies partner with ICE under a Memorandum of Agreement (MOA) in order to obtain authority to conduct enforcement of immigration laws within local law enforcement jurisdiction under the supervision of ICE agents; and

Whereas, The MOA defines the scope and limitations of authority, including the supervisory structure for the officers working under the cross-designation and the agreed upon complaint process governing officer conduct during the life of the MOA; and

Whereas, According to ICE, as of December 3, 2009, there were 66 active MOAs and more than 1,075 officers that had been trained and certified under the 287(g) program; and

Whereas, The 287(g) program, often referred to as a failed Bush experiment, allows the federal government to relinquish some of its power to enforce immigration law to local law enforcement and corrections agencies with limited oversight and has resulted in widespread use of pretextual traffic stops, racially motivated questioning and unconstitutional searches and seizures, primarily in communities of color; and

Whereas, On July 17, 2009, civil rights and community groups from throughout the country publicly denounced DHS's plans to expand the 287(g) program to 11 new jurisdictions; and

Whereas, On August 25, 2009, approximately 500 immigrant, civil rights and community organizations signed on to a letter sent to President Obama asking him to examine the damaging impact of the 287(g)

program on immigrants and to put an immediate end to the 287(g) program; and

Whereas, The Police Foundation, the International Association of Chiefs of Police, and the Major Cities Chiefs Association all expressed concerns that deputizing local law enforcement officers to enforce federal immigration law undermines their core public safety mission, diverts scarce resources, increases their exposure to liability and litigation, and exacerbates fear in communities; and

Whereas, In March 2009, the United States Government Accountability Office (GAO) provided testimony to the House of Representatives' Committee on Homeland Security regarding ICE's management of the 287(g) program, in which it criticized ICE's program mismanagement and insufficient oversight of the program; and

Whereas, According to the GAO testimony, the 287(g) program lacks the following internal controls: (i) program objectives are not documented in any program-related materials; (ii) guidance on how and when to use program authority is inconsistent; (iii) guidance on how ICE officials are to supervise local law enforcement officers from participating agencies is not developed; (iv) data that participating agencies are to track and report to ICE is not defined; and (v) performance measures to track and evaluate progress toward meeting program objectives is not developed; and

Whereas, The GAO concluded that the lack of internal controls makes it difficult for ICE to ensure that the program is operating as intended; and

Whereas, According to the Office of Management and Budget, the 287(g) program continues to be funded, including \$5,400,000 for fiscal year 2011 to facilitate agreements consistent with section 287(g) ; and

Whereas, New York University School of Law filed a Freedom of Information Act request with Immigration and Customs Enforcement from which it found the New York Department of Correction routinely giving a list of foreign-born inmates at Rikers Island to immigration authorities; and

Whereas, As a result immigrants fear going to local law enforcement agencies regarding crimes out of concern that it will lead to their families being torn apart; and

Whereas, New York City, home to approximately 2.9 million immigrants, has always been at the forefront of immigration reform efforts and has several policies and procedures to protect immigrants and aid them in adapting to life in the United States; and

Whereas, It is the policy of New York City to promote freedom from unlawful discrimination; and

Whereas, The negative impact that the 287(g) program has on immigrant life in the United States goes against New York City's policies and procedures; now, therefore, be it

Resolved, That the Council of the City of New York urges President Obama to put an end to the 287(g) program, an immigration enforcement program that is causing an increase in racial profiling and civil rights abuses in localities throughout the United States.

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