



**Office of the County Executive  
STEUART PITTMAN**

**Report on the Impacts of the Federal 287g Program and  
ICE Detention Center in Anne Arundel County**

*December 27, 2018*

**INTRODUCTION**

On December 12, County Executive Steuart Pittman requested information from Superintendent of Detention Facilities Terry Kokolis regarding the county's participation in the federal 287g immigration program, which enables county detention staff to screen prisoners for immigration status. After reviewing the data, County Executive Pittman and key public safety staff have determined that the 287g program has no meaningful impact on keeping county residents and visitors safe, nor does it assist in the county's effort to identify and arrest violent criminals. The program does, however, utilize valuable detention staff during a time where staffing shortages are well documented. The stigma of the program also impacts police outreach efforts - particularly in hispanic/latino communities.

Based on this information, County Executive Pittman has concluded that ending the 287g contract with Immigration and Customs Enforcement (ICE) is in the best interest of Anne Arundel County and will formally send written notice to ICE today.

**BACKGROUND**

In June 2017, under County Executive Steven R. Schuh's Administration, Anne Arundel County signed a Memorandum of Agreement with the Enforcement and Removal Operations division of U.S. Immigration and Customs Enforcement (ICE) to authorize county detention officers who complete ICE training to "identify and process for removal, under ICE supervision, aliens in AACMD jails/correctional facilities who fall within ICE's civil immigration enforcement priorities." The program operates pursuant to the authority of Section 287g of the Immigration and Nationality Act, and is commonly referred to as 287g. The contract involves only detention department staff and does not include the county police or sheriff department.

The program became operational on December 20, 2017 after county detention officers completed the ICE training program and ICE equipment was installed at the Jennifer Road Detention Center. There are currently twelve county-based staff assigned to the program. These detention staff perform their immigration enforcement work under the supervision of an ICE Program Manager, but their salaries and benefits are paid by Anne Arundel County, both during their four-week off-site training and once they are assigned to part-time work under ICE supervision.

Under 287g, ICE-trained county detention staff screen individuals during intake at the Jennifer Road Detention Center to determine their federal immigration status. This occurs only after individuals are already taken into custody for committing a crime. County law enforcement officers do not arrest individuals on the basis of immigration status. Therefore, 287g does not result in arresting undocumented immigrants - it only identifies whether criminals already in custody are undocumented. Once an individual is identified as being undocumented, that person is only turned over to ICE after their crime is adjudicated.

While the program may help further the federal immigration policy under President Donald Trump, it does not help county law enforcement keep criminals off of Anne Arundel County streets.

## **287g IN MARYLAND**

There are twenty four counties in Maryland, including Baltimore City. Only two other Maryland counties have similar 287g agreements in effect: Harford and Frederick. Nationally, there were 32 jurisdictions participating when President Donald Trump took office and there are 78 today. This is a very small portion of the 3,007 counties in the United States.

Most counties, including Anne Arundel, cooperate with ICE detainers through a federal Department of Homeland Security (DHS) program known as Secure Communities, whether they have 287g contracts or not. Under the Secure Communities program, “the fingerprints of all persons arrested by state or local police are submitted to DHS and checked against immigration databases. When ICE determines individuals are deportable, it can work with the state or local police agency to take custody of them or detain [them].” ([American Immigration Council](#))

## **COUNTY COUNCIL ACTION**

On November 7, 2016, the Anne Arundel County Council passed [Resolution 62-16](#), urging the County Executive to “make all changes related to personnel and budget items related to [ICE contracts] part of the annual County Budget process as a means of ensuring transparent, efficient and legal use of County resources.” The resolution was non-binding, and County Executive Schuh’s administration declined to follow the Council’s recommendation.

That council resolution also stated that, “It is not in the interests of Anne Arundel County to entangle County resources with the federal immigration system.” It noted that, “The Department of Detention Facilities has consistently reported a lack of necessary staffing, with staff numbers remaining below

their budget requests, requiring the Department to consider supplementing personnel with private security company staff.”

Over the past year, Dale Woldroff, the president of the detention officers union, has come before the County Council repeatedly to request that severe staff shortages be addressed. But since the 287g agreement was instituted, no information has been made available to the Council or to the public about the detention officer staff hours devoted to ICE-supervised work related to 287g.

### **WHAT HAPPENED AS A RESULT OF 287g IN ANNE ARUNDEL COUNTY?**

Since the December 2017 launch of the program, 193 foreign-born people were questioned about their immigration status by county detention officers while being processed at the county jail. These individuals were already in custody as a result of committing a crime. Most were found to be citizens or legal residents, but 69 were found to have either overstayed their visas or had entered the country without documentation. Those 69 undocumented residents were from 47 different countries and their offenses ranged from murder to public urination. Approximately half of the offenses were classified as violent offenses. All of these individuals were already in the county jail and 287g had nothing to do with their apprehension.

While the information about each foreign-born detainee was entered into the ICE database, not a single individual was actually turned over to ICE custody until the crime for which they were arrested was adjudicated, whether that crime was violent or minor.

In other words, criminals serve their time in jail, regardless of the 287g program. Freeing them for deportation would be a violation of the longstanding American principle that separates local criminal justice from immigration enforcement. Once those criminals have served their time, ICE may choose to issue a detainer allowing them up to two days to take custody of the person. That is the law with or without a 287g agreement.

### **WITHOUT 287g WOULD ICE DETAIN THESE SAME PEOPLE?**

Yes. Whether a jurisdiction has a 287g program or not, ICE knows who is in custody within an hour of when they are arrested through the live scan prints that are shared with the federal Department of Homeland Security. ICE also is free to interview those people at our jails pursuant to the Criminal Alien Program (CAP), and is notified when they are to be released so that they can detain and deport them if they choose to do so. These actions happen regardless of whether a 287g agreement exists in a jurisdiction.

### **HOW DOES 287g IMPACT PUBLIC SAFETY?**

Anne Arundel County and Maryland have been shaken by the gruesome murders of young Latino residents by members of a gang known as MS-13, which has its roots in Central America. This gang

started in California but operates internationally from its base in El Salvador. A key source of its revenue is extortion payments from immigrants who fear the prospect of being deported.

The Anne Arundel County Police Department understands that the only way to put MS-13 out of business locally is to protect and win the trust of the people MS-13 preys upon. Many of these people fled El Salvador and other Central American countries seeking asylum from the gang violence that has terrorized their communities. Most are here working in local businesses, paying taxes, and hoping that the great American political pendulum swings back to the place where immigrants were given a path to citizenship, as they were during the presidency of Ronald Reagan.

These people fear ICE, and while our police are not deputized to act as agents of ICE, the community is well aware that our detention staff play that role. Therefore, members of our immigrant communities often make a decision to avoid interacting with the police, for fear that family and friends may be vulnerable to ICE deportation. That is an obstacle to our police department's valiant efforts to protect these communities and all residents from MS-13 and other threats to their safety.

### **WILL ENDING 287g MAKE ANNE ARUNDEL A SANCTUARY COUNTY?**

No. Ending the program will simply put Anne Arundel County back among 21 Maryland counties that do not have 287g agreements in place. A sanctuary jurisdiction is one that interferes with the federal government's immigration enforcement efforts. Neither County Executive Pittman nor any member of the County Council has proposed that Anne Arundel become an immigration sanctuary.

### **WHAT WILL ICE DO WHEN THE COUNTY ENDS ITS 287g AGREEMENT?**

As long as Anne Arundel County does not interfere with the work of ICE we do not expect any federal retribution or increased immigration enforcement activity. The separation of criminal law enforcement from immigration enforcement is a longstanding principle espoused by politicians across the political spectrum. Anne Arundel County is a place where that principle will be adhered to.

### **TERMINATING 287g**

County Executive Steuart Pittman pledged during his campaign to end the county's participation in 287g once elected. In his inaugural speech on December 3, he made a commitment to do a report on the impacts of the program and then "kiss it goodbye."

Section XXI of the MOA allows either party to terminate the agreement immediately upon written notice to the other. Detention Superintendent Kokolis, upon hearing County Executive Pittman's inaugural speech had his staff suspend their work under 287g, but no termination letter was sent. ICE removed its computer terminal that provided county detention staff access to its database one day after County Executive Pittman's inaugural address.

County Executive Pittman will send a formal letter today, to the ICE Point of Contact in Baltimore, officially terminating the MOA.

## **THE FUTURE OF THE ICE DETENTION CENTER AT ORDNANCE ROAD**

In addition to the 287g program, Anne Arundel County has an Intergovernmental Service Agreement (IGSA) with ICE to hold up to 130 male detainees aged 18 or older with medium to low security ratings at Ordnance Road Detention Center. The program was authorized in September 2017 and the first detainees arrived in November of that year. Only six of the detainees have come through Anne Arundel County's 287g program.

In return for providing bed space, security, meals, and medical care to the detainees, Anne Arundel County receives a payment from ICE of \$118 per day for each detainee. In the first thirteen months of the program Anne Arundel County received \$4,015,693.

Detainees are sent to the Ordnance Road facility by ICE from all over the nation, including the southern border. At least two were fathers separated from their children at the border this year.

During his campaign, County Executive Pittman expressed concern about the county's participation in this program and suggested exploring alternative uses for the 130 beds, including the possibility of partnering with local nonprofits to transform it into an substance use disorder treatment facility.

Since that time various local pastors and immigration attorneys have visited the facility and report that conditions there are more humane than where these individuals would be sent if we were to close it. Mr. Pittman toured the facility on December 26, and after being briefed on its operations, and speaking to detainees there who have experienced conditions at other ICE detention facilities, has concluded that the facility should remain open.

The funds paid to the county by ICE for holding detainees at Ordnance Road went into the county's general fund and no accounting was given to the county council or the public of how those funds were spent. County Executive Pittman believes that the county council was right to ask for such an accounting in Council Resolution 62-16, and will do so in his 2020 budget. He will direct the ICE funds to the following spending categories: detention staffing, public safety, and legal representation for detainees.

Nearly all of the detainees at Ordnance Road are awaiting hearings on their immigration status. The Pittman administration will work with the University of Maryland School of Law Immigration Clinic on a plan to provide legal representation for the detainees.

"We are a country and a county that believes in the rule of law," said County Executive Pittman. "Using ICE funds to provide legal representation to these detainees demonstrates that our commitment to justice applies to everyone who resides here."