



TO: Members of the House Committee on Judiciary
FROM: Jay Diaz, Staff Attorney / Interim Policy Director, ACLU-VT
DATE: March 2, 2017
SUBJECT: 287(g), Title 19 Customs Designation, and other Agreements with ICE/HSI

What's Wrong with 287(g) and Title 19 Agreements with ICE/HSI?

- Federalizing of Local Police – Giving local officers the power of federal law enforcement grants local police access to weaker 4th Amendment restrictions used by federal courts and lets the federal government off the hook to handle interstate criminal enterprises. Vermont judges should be making decisions about what are appropriate actions for Vermont's local police.
- Erosion of Community Policing – To know their community and prevent the incursion of homegrown and external criminal elements, local officers must focus on what is happening in their community. Federalizing local officers will shift their focus away from the communities they were hired to serve.
- Likely Liability - Partnership with ICE/HSI will open law enforcement, related municipalities, and the state to liability. ICE/HSI and Border Patrol are two of the most egregious violators of civil liberties and civil rights in the federal government. Countless examples of abuse, as well as unnecessary violence and detention, exist across the country from these two law enforcement organizations. Minorities and immigrants have been particularly impacted and profiled by ICE/HSI's and Border Patrol's flaunting of constitutional norms.
- Expansion of Civil Liberties Violations to the Local Level – Border Patrol, and by extension Title 19 Officers in particular, believe they have authority to conduct warrantless searches without reasonable suspicion anywhere within 100 miles of the U.S. border. The Supreme Court recently passed up the opportunity to overturn this DHS policy, letting stand a 5th Circuit case where an Airforce vet was detained for more than 30 minutes for no reason.
- MOU Lacks Specificity and Focus on Crime– These agreements are written in overly broad language and not limited to human trafficking, drug interdiction or other crimes.
- Lack of Accountability and "Mission Creep" – Such narrowly tailored agreements must be closely monitored to prevent mission creep into the immigration realm.