GUIDANCE FOR RESPONDING TO PUBLIC RECORDS REQUESTS INVOLVING THE 287(g) PROGRAM

Dear 287(g) Partners,

This guidance complements the 287(g) Memorandum of Agreement (MOA) by providing procedures for responding to public records requests involving the 287(g) Program. Its purpose is to help ensure that participating agencies comply with the MOA and federal law while protecting federal interests.

As the 287(g) Program expands, participating agencies are increasingly called upon to process public records requests submitted under state laws that may involve both state and federal equities. Proper handling of these requests is essential to maintaining the integrity of the program, protecting sensitive federal information, and ensuring that both state and federal legal requirements are met.

This guidance outlines how to identify, review, and process records that may be responsive to public records requests, including how to distinguish between records outside the scope of this guidance, 287(g)-related records that implicate federal interests and may be released after review and appropriate redactions, and 287(g)-related records or portions of records that should be referred to ICE for review or FOIA processing before disclosure, as appropriate. By following these procedures, agencies will help support compliance with the MOA and the protection of federal interests.

As the 287(g) Program continues to develop, ICE may provide updated or supplemental guidance from time to time, as needed, to address new issues, changes in program operations, or other developments affecting the handling of public records requests.

I. Scope and Approach

This guidance applies only to records associated with the administration of the 287(g) Program. Agencies should review the content of each responsive record, not just its title or format. Records fall into one of three categories as listed below:

- outside the scope of this guidance (Section III),
- related to the 287(g) Program and potentially disclosable with redactions (Section V),
- related to the 287(g) Program and containing information subject to federal confidentiality requirements, ICE control, or other federal interests that should be referred to ICE for review or FOIA processing, as appropriate (Section VI).

Consult legal counsel as appropriate.

II. Continuing Federal Interests

When carrying out authorized functions under the 287(g) Program, agencies act on behalf of the Department of Homeland Security (DHS). Agencies may create, receive, maintain, or access information on behalf of DHS in furtherance of federal immigration enforcement responsibilities. Even if agencies have physical possession of such information, its disclosure may implicate significant federal interests and, in some instances, remain subject to federal control or confidentiality requirements. Federal interests continue even when records are held at the state or local level.

III. Records Outside the Scope of This Guidance

Records created solely under a state or local agency's independent authority, with no connection to the 287(g) Program, are outside the scope of this guidance. Agencies may process these records according to their own policies and applicable state law.

Some examples of these records include:

- State criminal investigation files,
- Traffic citations, crash reports, and traffic enforcement records,
- Arrest reports prepared solely under state or local law,
- Jail administration records unrelated to 287(g) or ICE detention,
- Personnel records unrelated to 287(g) participation.

IV. Determining Record Type and Next Steps

Upon receiving a records request, agencies should determine whether the record is:

- **Purely a state record with no 287(g) connection:**
  Handle in accordance with state law and agency policy (see Section III above).
- **Related to the 287(g) Program:**
  If so, agencies should consider the following steps:
    - Review for information that may be appropriate for disclosure after review and redaction, as described in Section V below.
    - If the record contains special categories of protected information described in Section VI below, those portions should be referred to ICE for review or FOIA processing, as appropriate, before disclosure by the participating agency.

Some records may contain both state and 287(g)-related information ("mixed records"). In these cases, agencies should separate the portions where practicable and apply the appropriate rules to

each. Information described in Section VI should be referred to ICE for review or FOIA processing, as appropriate, before disclosure by the participating agency.

V. 287(g) Program Information That May Be Disclosed With Appropriate Redactions

Some administrative records related to the 287(g) Program may be released, provided sensitive information is redacted as described below.

Some examples of these records include:

- Executed/Signed 287(g) MOAs and amendments,
- Aggregate statistics or data (without PII, see below),
- Publicly available ICE policies and guidance,
- Administrative correspondence,
- Standard operating procedures,
- Budgets, contracts, procurement documents, invoices, and financial records.

Before disclosure, agencies should review for and redact sensitive information, as appropriate, including the following:

- **Personally Identifiable Information (PII):** Names, social security numbers, government-issued IDs, dates of birth, home addresses, personal contact details, financial/medical/biometric data, immigration document numbers.
- **Federal Personnel Information and Deputized 287(g) Officers:** Names, signatures, photographs, employee/credential numbers, government emails, direct phone numbers, duty assignments, and deployment information for non-public-facing ICE personnel and deputized 287(g) personnel.
- **Federal Immigration Information:** Alien Registration Numbers (A-Numbers), Fingerprint Identification Numbers (FIN), USCIS numbers, immigration case and detainer numbers, database query results, ICE/DHS system information.
- **Sensitive Law Enforcement Information:** Investigative records, operational plans, surveillance, transportation/facility security procedures, intake procedures, confidential sources, protected victims/witnesses, or any information that could compromise officer safety, law enforcement operations, or significant federal interests.

Note: If an agency identifies potentially responsive records that are not specifically addressed in this section but believes the records may contain sensitive 287(g)-related information or otherwise implicate federal interests, the agency should coordinate with ERO before disclosure. Nothing in this section should be construed to authorize disclosure of information described in Section VI.

Required ERO Notification When State Law Does Not Permit Recommended Redactions: If state law requires disclosure of a 287(g) Program record, or portions of a mixed record involving the 287(g) Program, and does not permit the redactions recommended in Section V of this guidance, the agency must promptly notify ERO before releasing the information. This includes situations where state law does not allow redaction of information identified in Section V, such as ICE officer names, 287(g) officer names, or other information that may implicate federal interests.

Because 287(g)-related records may implicate federal interests even when maintained by a participating agency, advance notification allows ICE to assess those interests in the context of the proposed disclosure and determine whether further action is warranted.

VI. 287(g) Program Information Protected by Federal Law or Appropriate for Referral to ICE

Certain categories of 287(g)-related information are protected by federal law or otherwise subject to federal confidentiality restrictions. Participating agencies should refer requests involving such information to ICE for review or FOIA processing, as appropriate.

Background:

- **Detainee Regulation (8 C.F.R. § 236.6):** Prohibits state and local entities from disclosing the name of, or any information relating to, individuals detained for ICE in non-federal facilities. Such information is under ICE control and not a public record. Disclosure is only permitted via FOIA to ICE.
- **Asylum Confidentiality (8 C.F.R. § 208.6):** Federal regulations strictly protect information that identifies, or could reasonably lead to the identification of, an individual who has applied for asylum, sought asylum, or otherwise requested related protection. This includes not only asylum-specific records, such as Form I-589, credible fear or reasonable fear interview materials, officer notes, and supporting documents, but also any reference that states or implies the individual sought asylum or protection. Even mentioning the word "asylum" in connection with a specific person, or otherwise indicating that the person requested asylum or fear-based protection, may reveal protected information and should not be disclosed unless a specific legal authorization or exception applies.
- **T/U/VAWA Visa Confidentiality (8 U.S.C. § 1367):** Information about T (trafficking victims), U (crime victims), and VAWA (Violence Against Women Act) visa applicants is protected to safeguard victims and their families. **PLEASE NOTE** the disclosure of records associated with these programs may carry criminal and civil penalties.
- **Amnesty and Seasonal Agricultural Workers (8 U.S.C. § 1255a(c) (5) and 8 U.S.C. § 1160):** Information related to persons who applied for and/or were granted status under the Amnesty Temporary Resident and Seasonal Agricultural Worker programs. **PLEASE**

NOTE the disclosure of records associated with these programs may carry criminal and civil penalties.

Some examples of these records include:

- Information relating to current or former ICE detainees,
- Immigration detainers, including Form I-247; administrative immigration warrants, including Form I-200; criminal warrants related to immigration offenses, where applicable; and related records or forms. Examples of criminal immigration offenses include illegal entry, 8 U.S.C. § 1325; illegal reentry, 8 U.S.C. § 1326; and alien smuggling, 8 U.S.C. § 1324.
- Detainee-related emails, processing, custody, housing, transportation, transfer, release, and removal records,
- Detainee identification, photographs, and biometric information,
- Detainee body-worn camera records, surveillance recordings, and photographs,
- Medical and mental health records for detainees,
- Information relating to Asylum, Amnesty and Seasonal Agricultural Workers, and T, U, and VAWA visa applicants.

Recommended Response Template for Participating Agencies Responding to Requests Involving Current or Former ICE Detainees:

> *"Under 8 C.F.R. § 236.6, state and local entities may not disclose the name of, or any other information relating to, individuals detained on behalf of ICE in non-federal facilities. Such information remains under ICE's control and is not a public record subject to state or local disclosure laws. Requests for this information must be submitted to ICE through the Freedom of Information Act (FOIA) process."*

Note: If a record contains both information that may be disclosed and information described in this section, agencies should separate those portions where practicable. Only the portion described in this section should be referred to ICE for review or FOIA processing, as appropriate.

VII. Administrative Appeals

If a requester appeals a response involving 287(g) Program information, the participating agency should promptly notify ERO and provide ERO with the notice of appeal, the original request, the agency's response, the appeal or request for review, any applicable deadlines, and the records at issue. Because appeals are time sensitive, agencies should notify ERO as soon as practicable.

VIII. Recommended Response Template for Participating Agencies Referring Requesters to ICE FOIA

"Certain records or portions of records responsive to your request are under the control of U.S. Immigration and Customs Enforcement (ICE) and must be requested directly from ICE through the Freedom of Information Act (FOIA) process.

FOIA requests to ICE must generally be submitted online through the SecureRelease Portal at https://www.securerelease.us/. Additional information on how to submit a FOIA request to ICE is available at https://www.ice.gov/foia/submit-request. ICE does not accept FOIA requests by regular mail, except from requesters who are detained or incarcerated.

If you are detained or incarcerated and must submit your request by mail, you should clearly state that you are detained or incarcerated, provide a correct return mailing address, clearly describe the records you are seeking, and sign and date your request. You should also include any required supporting documentation or a statement made under penalty of perjury, as applicable.

Mailed FOIA requests from detained or incarcerated requesters should be sent to:

Freedom of Information Act Office
U.S. Immigration & Customs Enforcement
500 12th Street SW, MS 5009
Washington, D.C. 20536-5009

Mailed FOIA requests that do not meet the detained or incarcerated requester exception will not be processed and will be destroyed."

IX. Questions and Further Guidance

For complex or unique records requests, or if you have questions regarding this guidance or the administration of the 287(g) Program, contact ERO287g@ice.dhs.gov. Future guidance will be issued as necessary.

Subject: [EXTERNAL SENDER] GUIDANCE FOR RESPONDING TO PUBLIC RECORDS REQUESTS INVOLVING THE 287(g) PROGRAM
From: "PublicSafetyPartnership"
Date: 8/18/2026 7:19:20 PM
To:
CC:

Attachments: 287(g) - Guidance to LEAs on Information Disclosure_8.18.26_1.pdf

Good day,

Please see the attached latest guidance on disclosing information pursuant to your agency's current 287(g) agreement.

Thank you,

ICE 287(g) Team

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