



April 14, 2023

Ms. Shoba Sivaprasad Wadhia
Officer
Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
2707 Martin Luther King, Jr. Avenue, SE
Washington, DC 20528-0190
CRCLCompliance@hq.dhs.gov

Via Email

Re: ICE’s 287(g) Agreement with the Alamance County Sheriff’s Office

Dear Ms. Wadhia:

On behalf of North Carolina Justice Center, Siembra NC, the American Civil Liberties Union (ACLU) and the ACLU of North Carolina, we write to submit this complaint to the DHS Office for Civil Rights and Civil Liberties (CRCL) regarding Immigration and Customs Enforcement’s (ICE) 287(g) agreement with the Alamance County Sheriff’s Office.

The current administration has stressed that through the 287(g) Program, it seeks to coordinate operations “in a way that best serves local needs” and the Department of Homeland Security’s (DHS) “public safety” mission.¹ In fact, ICE’s partnership with the Alamance County Sheriff’s Office hinders public safety and undermines local needs. As detailed below, it has created a climate of fear and anxiety for immigrants, their loved ones and communities of color—chilling their access to government services, including police protection from serious crimes.

Based on the allegations and evidence presented here, we urge CRCL to initiate investigations into 1) the persistence of discriminatory policing practices and a culture of discrimination in the Sheriff’s Office, first identified by the Justice Department in 2012; 2) the broader and continuing pattern of civil rights violations committed by the Sheriff’s Office to this day; and 3) the lack of accountability and transparency with local stakeholders.

¹ U.S. Immigration and Customs Enforcement, “Fiscal Year 2021 Report to Congress,” June 14, 2022, <https://www.dhs.gov/sites/default/files/2022-08/ICE%20-%20287%28g%29%20End-of-Year%20Report-508.pdf>.

Congress has instructed CRCL to “provide rigorous oversight of the 287(g) program.”² Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL reviews and assesses information concerning abuses of civil rights and civil liberties, and profiling on the basis of race, ethnicity or religion, by DHS and officials, or through DHS programs and activities. CRCL’s Anti-Discrimination Group is responsible for monitoring civil rights compliance of DHS grantees. CRCL may investigate a complaint related to the 287(g) program and “use its findings to make recommendations for improving policy, implementation, training or oversight aimed at reducing the risk of civil rights or civil liberties violations in the future.”³

I. Background on Alamance County’s 287(g) Agreement with ICE

Alamance County Sheriff Terry Johnson was first elected in 2002.⁴ Under Sheriff Johnson, Alamance County Sheriff’s Office was among the first local law enforcement agencies to join the 287(g) program in 2007.

In 2012, the Department of Justice concluded a two-year investigation of the Sheriff’s Office, finding a pattern of discriminatory policing against Latino people.⁵ Assistant Attorney General Thomas E. Perez, who authored the letter summarizing the findings of the investigation, wrote: “The discriminatory conduct we observed is deeply rooted in a culture that begins with Sheriff Johnson and permeates the entire agency.”⁶ Key findings include:

- The Sheriff’s Office engaged in discriminatory targeting of Latino people in traffic stops and at vehicle checkpoints;
- Correctional officers discriminated by detaining Latino people for immigration status checks even after they had posted bond, and deciding which detainees to interview based on assumptions about nationality and ethnicity;
- These discriminatory practices undermine the Sheriff’s Office’s “ability to serve and protect Alamance County’s Latino residents and the community at large”; and

² H. Comm. Print 47-047/47-048 Legislative Text and Explanatory Statement Book 1 (Div A-F), <https://www.govinfo.gov/content/pkg/CPRT-117HPRT47047/pdf/CPRT-117HPRT47047.pdf>.

³ Government Accountability Office, *Immigration Enforcement: ICE Can Further Enhance Its Planning and Oversight of State and Local Agreements*, January 2021, <https://www.gao.gov/assets/gao-21-186.pdf>.

⁴ “Alamance County Sheriff’s Office,” Alamance County, North Carolina, <https://www.alamance-nc.com/sheriff/>; Immigration and Customs Enforcement, *The ICE 287(g) Program: A Law Enforcement Partnership* (January 21, 2010), <https://www.hsdl.org/?abstract&did=29593>.

⁵ Thomas E. Perez to Clyde B. Albright, “Re: United States’ Investigation of the Alamance County Sheriff’s Office,” September 18, 2012, <https://www.justice.gov/iso/opa/resources/171201291812462488198.pdf>.

⁶ Id.

- A “culture of discrimination” pervades the Sheriff’s Office and is fostered by the sheriff, who has made numerous anti-immigrant statements.⁷

Following the Justice Department’s damning investigation, DHS terminated its 287(g) agreement with the Sheriff’s Office. But in 2017, under the Trump administration, ICE reportedly approached the Sheriff’s Office with an invitation to rejoin the program.⁸ In 2020, ICE signed a new 287(g) agreement with Sheriff Johnson, with no expiration date.⁹ As this complaint details, there is ample reason to believe that the pattern of discriminatory policing and culture of discrimination identified by the Justice Department persists—with Sheriff Johnson still at the helm of the agency.

II. Data Shows Racial Disparities in Traffic Stops by Sheriff’s Office

The Sheriff’s Office engages in traffic stops involving Latinx and Black drivers in the county at disproportionate rates, corroborating the accounts of racial profiling in Part III of this complaint. Officers generally exercise broad discretion in traffic stops and thus may be particularly susceptible to bias.

The ACLU analyzed the most recent data publicly available regarding traffic stops, which the Sheriff’s Office was required to report to the state, covering the period of February 2018 to December 2022. We found:

- **Latinx people were stopped at checkpoints at a rate nearly twice as high as their population in Alamance County.** While “Hispanic or Latino” people make up 13.7% of the population according US Census data, they accounted for 26.7% of the 750 checkpoint stops;
- **Black people were consistently stopped at rates disproportionate to their population and in contexts that may involve broad discretion--and are thus susceptible to bias.** For example, Black people make up 32.5% of people stopped for the purpose of “investigation,” 29.3% for “other motor vehicle violation,” 31.6% for “safe movement violation,” and 35% of those stopped for “vehicle equipment violation”—compared to only 21.9% of the county population.

Open Data Policing, a platform aggregating policing data in North Carolina, shows racial disparities in stops of Latinx people in Alamance County over time.¹⁰ At a state level, North

⁷ Id.

⁸ Jordan Green, “This Sheriff Was Booted by DHS for Racism. Now Trump Wants to Enlist Him in Deportations,” *In These Times*, April 24, 2018.

⁹ Memorandum of Agreement Between Immigration and Customs Enforcement and Alamance County, NC Sheriff’s Office, May 21, 2021, https://www.ice.gov/doclib/287gMOA/287gWSO_AlamanceCoNC_05-21-2020.pdf.

¹⁰ Open Data Policing, <https://www.opendatapolicingnc.com/>.

Carolina suffers glaring racial disparities in traffic stops, according to a study of more than 20 million traffic stops in North Carolina. The study concluded that “in communities where minorities have higher levels of political power, racial disparities in these stops are lower.”¹¹ Findings of discrimination against Latinx and Black communities suggest a continued culture of discrimination and bias in the Sheriff’s Office.

III. Accounts Corroborate Continued Discriminatory Policing and Illustrate Fear of Law Enforcement

Siembra NC has documented accounts from numerous community members of Latinx descent who believe they were stopped by the Sheriff’s Office because of their appearance and perceived race and national origin—with the actual purpose of immigration enforcement—as well as individuals who said they were held for immigration checks after they posted bail.

For example, a mother of three girls and resident of Alamance County for 16 years described being stopped for a driver’s license check and detained on the side of the road for one hour. She was then booked into the county jail. She paid bail. “When I was going to pick up my personal belongings another officer showed up and said, ‘come here’ and he took me to another room where they wanted me to sign my voluntary deportation order.” She explained that she had a work permit, but “they insisted that I had to sign.” She was detained an additional four hours, until her lawyer arrived and secured her release. She described being treated by jail staff “with disdain and arrogance.”¹²

In another case, Flor Perez, a woman who had resided in the county for 16 years, recounted to Siembra NC that an officer crossed four lanes of traffic to follow her car and pull her over. “When I asked him what violation we had committed, so we wouldn’t commit it again in the future, he answered ‘none’ and then I asked him the reason for which he had stopped us.” He told her, “I detain you because I want to and because I can, I don’t need anything else.” Due to her fear and uncertainty of her legal rights, she did not report him or ask for his name. She told Siembra NC: “There’s fear and people who take advantage of it and our Latin people does not report it because the police collaborates with ICE.”¹³

Another resident, a mother of two who has lived in Alamance County for 17 years, told Siembra NC: “We don’t know why they will detain us, and they will take us to jail and from there, they send you to immigration.” She said that at a roadblock, personnel from the Sheriff’s Office had stopped her and her partner—she believed because of their physical appearance and perceived race. Neither of them had a license, and when a friend came to pick up their car, “they gave him

¹¹ Frank R. Baumgartner et al., “What 20 Million Traffic Stops Reveal About Policing and Race in America,” June 1, 2018, <https://scholars.org/brief/what-20-million-traffic-stops-reveal-about-policing-and-race-america>.

¹² Siembra NC, Interview with [Name Withheld], Oct. 19, 2022.

¹³ Siembra NC, Interview with Flor Perez, Oct. 24, 2022.

a look and since he is tall and light-eyed they didn't even ask him for any documents or papers to [prove] he could drive the car.”¹⁴

Humberto Sandoval, who has resided in the county for 26 years, described being tailed by a Sheriff's Office car after leaving a *quinceañera* (15-year-old child's birthday party). “All the time [he] would do as if he wanted to crash into my car,” Sandoval said. After pulling Sandoval over, a deputy aggressively questioned Sandoval. “We are so afraid, both children and adults, as well as [for] our kids, that they might separate us for going to work and we know that it's only because we look Latin,” he told Siembra NC. ¹⁵

Many community members have told Siembra NC that sheriff's deputies disregarded their lawful status and treated them as if they were undocumented based on their perceived race and national origin, notwithstanding their actual immigration status. One man, a resident of Alamance County for 16 years and father of three kids, told Siembra NC that sheriff's deputies pressured him to sign a voluntary departure order “claiming it is faster for everyone” even though he had legal status.¹⁶

IV. A Culture of Discrimination at Alamance County Sheriff's Office

The Justice Department's 2012 investigation concluded that the “[t]he Sheriff and the highest levels of command staff support and foster [a] culture of bias,” and cited the sheriff's numerous statements exhibiting bias against Latinx people.¹⁷ Sheriff Johnson has subsequently continued his pattern of racist and anti-immigrant rhetoric; in a 2019 meeting on a budget request, he told the county's board of commissioners that “criminal illegal immigrants” are “actually raping our citizens in many, many ways.”¹⁸

In 2020, Johnson was photographed attending a Confederate Memorial Day rally, and he tried to prohibit anti-racism protests against a local Confederate monument.¹⁹

¹⁴ Siembra NC, Interview with [Name Withheld], Oct. 26, 2022.

¹⁵ Siembra NC, Interview with Humberto Sandoval, Oct. 25, 2022.

¹⁶ Siembra NC, Interview with [Name Withheld], Nov. 1, 2022.

¹⁷ See ACLU of North Carolina, “Feds: Alamance Sheriff Ordered Deputies to ‘Bring Me Mexicans,’” Dec. 21, 2012, <https://www.acluofnorthcarolina.org/en/news/feds-alamance-sheriff-ordered-deputies-bring-me-mexicans>.

¹⁸ See Alissa Ellis, “ICE Partners Again with a Sheriff It Once Severed Ties With Because of Racial Profiling,” ACLU, Feb. 1, 2019, <https://www.aclu.org/blog/immigrants-rights/ice-and-border-patrol-abuses/ice-partners-again-sheriff-it-once-severed-ties>.

¹⁹ Sarah Willets, “Alamance County's Notorious Sheriff Hurt His Shin, and He Wants an Anti-Confederate Protester from Durham to Pay for It,” *Indy Week*, November 22, 2017, <https://indyweek.com/news/alamance-county-snotorious-sheriff-hurt-shin-wants-anti-confederate-protester-durham-pay/>; Lynn Bonner, “Legal settlement ensures protests are allowed

V. The Sheriff's Office Has a Broader Record of Civil Rights Violations

The Sheriff's Office also has a record of civil rights violations outside of the immigration context. DHS should not provide federal funding and support to a local law enforcement agency engaged in ongoing civil rights violations; nor should it tacitly sanction these violations by empowering the sheriff through the 287(g) program.

Sheriff Johnson and other local officials threatened protestors with arrest and prohibited protests near a Confederate monument, prompting a lawsuit by the ACLU and others.²⁰ In 2020, the sheriff selectively targeted individuals exercising their First Amendment rights. During a "Black Lives Matter" (BLM) demonstration in 2020, counter-protestors arrived and for the duration of the BLM protest, rang a 400-pound bell located in a public square in an attempt to disrupt the BLM peaceful protest.²¹ At no point did the Sheriff's Office keep them from doing so. However, when BLM protestors began ringing the bell, Sheriff Johnson had them arrested.²²

Also in 2020, Alamance County Sheriff's Office deputies fired pepper spray at a group of mostly Black marchers walking from church to a polling station—among them children (including a 5-year-old girl), the elderly, and people with disabilities. This prompted civil rights lawsuits against the sheriff for excessive force, interference with protected speech and assembly rights and other rights violations, including two brought by the ACLU of North Carolina and the NAACP.²³ Many of those affected were unable to cast their votes that day. As noted in the NAACP lawsuit, the sheriff "sent a clear message targeting Black voters and others who speak

around the Alamance County Confederate statue," The Pulse, April 21, 2021, <https://pulse.ncpolicywatch.org/2021/04/21/legal-settlement-ensures-protests-are-allowed-around-the-alamancecounty-confederate-statue/#sthash.snLjhVGy.dpbs>.

²⁰ Carli Brousseau, "Cussing is not a crime, Alamance sheriff acknowledges in legal settlement," The News & Observer, April 19, 2021, <https://www.newsobserver.com/news/politics-government/article250778949.html>.

²¹ See Kristy Bailey, "BLM Protestor Sues Sheriff Over July 2020 Treatment Following Demonstration at Sesquicentennial Park," Sept. 15, 2022.

²² Zachary Eanes and Carli Brousseau, "March to Alamance Polls Ends With Police Using Pepper-spray on Protesters, Children," The News & Observer, October 31, 2020, <https://www.newsobserver.com/news/local/article246861942.html>.

²³ Drumwright v. Johnson, 1:20-cv-00998 (M.D.N.C., November 2, 2020), https://www.acluofnorthcarolina.org/sites/default/files/field_documents/filed_complaint.pdf; Allen v. City of Graham, 1:20-cv-00997 (M.D.N.C., Nov. 2, 2020), <https://www.courtlistener.com/docket/63554146/carter-v-alamance-county-detention-facility/>.

out against police violence targeting Black people . . . that they may face pepper spray or other attacks when they vote or engage in peaceful assemblies.”²⁴

VI. Alamance County Detention Facility Conditions Are Inhumane

In March 2022, ICE announced it would limit its use of the Alamance County Detention Facility for immigrant detention, citing among other issues, “concerns about conditions, including a lack of outdoor recreation.”²⁵ While we welcome this step, the inhumane detention conditions at the jail are also relevant to the question of whether ICE should continue its 287(g) agreement with Alamance. When ICE taps state and local law enforcement agencies to assist in immigration enforcement, it prolongs immigrants’ time in local jails. Moreover, when the federal government partners with abusive jails through the 287(g) program, it tacitly sanctions these conditions.

In November 2021, three people detained at the jail were found unconscious; two died, at least one due to an overdose of opioids.²⁶ In August 2021, another woman died in the jail following an apparent drug overdose.²⁷ In 2020, a man complained that he had been severely beaten by 12 men in the jail while guards walked by and did nothing; he accused the department of negligence.²⁸ The jail has had multiple COVID-19 outbreaks infecting hundreds of detained people.²⁹ An investigation by Disability Rights North Carolina revealed that the Sheriff’s Office

²⁴ Allen v. City of Graham, 1:20-cv-00997 (M.D.N.C., Nov. 2, 2020), <https://www.courtlistener.com/docket/63554146/carter-v-alamance-county-detention-facility/>.

²⁵ U.S. Immigration and Customs Enforcement, “ICE to close Etowah Detention Center,” March 25, 2022, <https://www.ice.gov/news/releases/ice-close-etowah-detention-center>.

²⁶ Elizabeth Thompson, “NC Jails Report Deaths, But What If You Almost Died While Incarcerated?,” North Carolina Health News, December 7, 2021, <https://www.northcarolinahealthnews.org/2021/12/07/nc-jails-report-deaths-but-what-if-you-almost-died-while-incarcerated/>.

²⁷ “How did a woman O.D. in jail several days after her arrest?,” *Alamance News*, September 2, 2021, <https://alamancenews.com/how-did-a-woman-o-d-in-jail-several-days-after-her-arrest/>.

²⁸ Elizabeth Pattman, “Ex-Alamance Jail Inmate Alleges Negligence After Assault,” *The Times-News*, February 1, 2020, <https://www.thetimesnews.com/story/news/crime/2020/02/01/ex-alamance-jail-inmate-alleges-negligence-after-assault/41798087/>.

²⁹ Rachel Berry, “COVID-19 Outbreak Identified at Alamance County Jail,” *The Times-News*, February 6, 2021, <https://www.thetimesnews.com/story/news/local/2021/02/06/covid-19-outbreak-identified-alamance-county-jail/4423537001//>; Rachel Berry and Isaac Groves, “Sheriff: Unvaccinated Person Behind 62-Person Alamance County Jail COVID Outbreak,” *The Times-News*, August 25, 2021,

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received nearly half a million dollars in state funds for detaining people for the state in months when the jail was dangerously overcrowded, jeopardizing the safety of all staff and detained people, especially those with disabilities.³⁰

In a pro se complaint filed with a North Carolina federal district court this year, a person formerly detained at the jail alleged that four officers handcuffed and beat him—requiring hospitalization for a laceration on his face and a broken rib.³¹ According to the complaint, he was dragged 200 feet by the officers. He also said he was not allowed to shower and clean his wounds, had to beg for simple hygiene materials, and that his cell mate, who suffers from epilepsy, was not receiving proper medical care.³²

Another person detained at the jail reported, in a pro se filing in federal court, that serious medical needs often go unmet, stating: “I have documented Hepatitis C, HVS 1&2, kidney disease, bipolar and antisocial personality disorder.” He said he was unable to convince medical personnel in the facility to attend to his medical needs.³³

A local attorney reported to North Carolina Justice Center that his client, who was held at the facility for eleven months (September 2021 to July 2022), faced safety issues, medical neglect, and inadequate food. Specifically, the client was met with physical aggression by several other individuals in custody because of the client’s Mexican ethnicity. Additionally, one of these individuals extorted the client and the client’s family for months by requesting that the client’s family send money via an electronic payment phone application in exchange for the client’s safety. After about three months, jail officers finally moved the client to solitary confinement to protect him. The client remained in solitary confinement for approximately seven months. Nevertheless, his client feared for his safety because other individuals in custody would use razors to prevent cell doors from locking and could move around freely between pods; the client complained of this to the jail staff but, to his knowledge, no corrective action was taken. Additionally, the client complained of a toothache, but he was told to simply take a pain reliever. The client stated that the quality of food was poor, lacked flavor, and was served in small portions.

<https://www.thetimesnews.com/story/news/coronavirus/2021/08/25/62-people-test-positive-covid-19-outbreak-alamance-county-jail-vaccinations-masks-terry-johnson/8205171002/>.

³⁰ “State Jail Program Tied to Overcrowding,” Disability Rights North Carolina, August 16, 2021, <https://disabilityrightsn.org/prisons-and-jails/state-jail-program-tied-overcrowding/>.

³¹ Isaac Groves, “Alamance County jail inmates claim brutality in federal court,” Times-News, July 4, 2022, <https://archive.ph/B0TQW#selection-481.32-481.50>.

³² Id.

³³ See Complaint, Carter v. Alamance County Detention Facility, 1:22-cv-00493 (M.D.N.C. June 28, 2022).

VII. Lack of Transparency and Stymied Accountability

The Justice Department, in its 2012 findings letter, noted that Sheriff Johnson had delayed and failed to provide critical records and documentary evidence.³⁴ The Justice Department filed a complaint with a U.S District Court to compel interviews without the sheriff's lawyer present.³⁵ The sheriff's record of evading accountability has continued. In 2015, a former sheriff's deputy filed a lawsuit in district court alleging that he was fired because he was willing to testify in the Justice Department's lawsuit regarding the sheriff's unlawful racial profiling. This later resulted in a settlement of over \$300,000.

The Sheriff's Office has also withheld documents regarding jail conditions. When the North Carolina Justice Center requested records regarding harm to an inmate this year, the tragic August 2022 death of Demarius Wheeler while in custody was noted; however, the vast majority of the details surrounding his death were redacted). One of the few unredacted pieces of information from this request noted that there were gaps in the required officer rounds the evening before and morning of Mr. Wheeler's death.³⁶

VIII. Recommended Investigation Actions

We request that CRCL initiate an investigation, including these steps:

1. Request data from the Sheriff's Office regarding all individuals subject to immigration questioning, including demographic information and the initial basis for the stop;
2. Conduct a site visit, including interviews with all Sheriff's Office personnel deputized for the program; interviews with local community leaders and impacted individuals;
3. Conduct local meetings with community stakeholders including local school, health and social services officials;
4. Interview all ICE personnel involved in supervising Sheriff's Office activities;
5. Request and assess data regarding trainings conducted by ICE and the Sheriff's Office regarding the 287(g) program, racial profiling and civil rights compliance; and
6. Notify the Department of Justice Civil Rights Division of the investigation and jointly investigate the continued pattern of discriminatory policing in Alamance County.

³⁴ Thomas E. Perez to Clyde B. Albright, "Re: United States' Investigation of the Alamance County Sheriff's Office," September 18, 2012, <https://www.justice.gov/iso/opa/resources/171201291812462488198.pdf>.

³⁵ Id.; Michael Biesecker, "Feds Say North Carolina Sheriff, Deputies Targeted Latinos," Lubbock Avalanche-Journal, September 19, 2012, <https://www.lubbockonline.com/story/news/nation-world/2012/09/19/feds-say-north-carolina-sheriff-deputies-targeted-latinos/15130197007/>.

³⁶ Records on file with North Carolina Justice Center (available upon request).

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Upon any significant findings of racial bias, discrimination, misconduct or violation of the 287(g) agreement, we urge CRCL to make a recommendation to the ICE Acting Director Tae Johnson to terminate the agreement with the Sheriff's Office.

Thank you for your time and attention to this complaint. We look forward to your response.

Sincerely,

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