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TREASURER

Re: Unsuitability of Renewal of Jurisdictions for the 287(g) Immigration Enforcement Program

Dear Mr. Friedman:

On behalf of the American Civil Liberties Union (ACLU), a nonpartisan public interest organization dedicated to protecting the principles of liberty and equality set forth in the Constitution and in our nation's civil rights laws, and its more than a million members, activists, and supporters, we write to express our deep concerns about renewal of the 287(g) program in 32 jurisdictions. This letter supplements and updates our December 14, 2012 letter to you, which raised concerns about jurisdictions that were being considered for 287(g) renewal agreements at the time.<sup>1</sup>

The ACLU urges Immigration and Customs Enforcement (ICE) to terminate the 287(g) program in all 32 jurisdictions in 16 states that have existing agreements. This letter raises specific concerns, including civil rights violations and bias based on immigration status, race, or ethnicity, in six of the proposed jurisdictions. That we do not address the remaining jurisdictions does not indicate our support for those renewals, or the absence of jurisdiction-specific concerns. Along with leading law-enforcement voices<sup>2</sup> we object in principle to the entanglement of immigration enforcement with state or local policing. Continuing 287(g) in these jurisdictions will only perpetuate the program's record of encouraging racial profiling – as seen starkly in the Department of Justice's findings regarding sometime 287(g) partners Maricopa County (AZ) and Alamance County (NC) – to the detriment of public safety and community trust in law enforcement.

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<sup>1</sup> Letter from American Civil Liberties Union to Bruce Friedman, Senior Policy Advisor, Office for Civil Rights and Civil Liberties, Department of Homeland Security (Dec. 14, 2012), <https://www.aclu.org/aclu-letter-dhs-crcl-opposing-new-287g-applications>.

<sup>2</sup> Statement of Chief J. Thomas Manger, Chairman of the Legislative Committee for the Major Cities Chiefs Association, "Examining 287(g): The Role of State and Local Law Enforcement in Immigration Law." House Committee on Homeland Security (Mar. 4, 2009), available at <https://www.gpo.gov/fdsys/pkg/CHRG-111hhrg49374/html/CHRG-111hhrg49374.htm>.

## Frederick County Sherriff's Office, Frederick County, Maryland

Frederick County has participated in the 287(g) program since August 1, 2008.<sup>3</sup> Frederick County Sheriff Chuck Jenkins claims that participation in the 287(g) program is about protecting public safety and security.<sup>4</sup> Yet his claim is belied by statistics showing that the program has overwhelmingly resulted in the deportation of individuals apprehended for minor offenses such as traffic violations. Over 80 percent of all arrests made under the 287(g) program in Frederick County were for low-level offenses, including over 60 percent for traffic violations.<sup>5</sup> According to the Frederick County Sheriff's Office's own numbers, of the 995 detainees the sheriff's office lodged from when it joined the 287(g) program in 2008 until 2011, 902—over 90%—were for immigrants arrested for misdemeanor offenses.<sup>6</sup> Community advocates also cite numerous instances of arbitrary and baseless stops of Latino citizens and immigrants by officers<sup>7</sup> and news reports document complaints of racial profiling by the sheriff's office.<sup>8</sup> The most tangible effect the program has had is a marked mistrust of police among the Latino community.<sup>9</sup>

In October 2008, two deputy sheriffs in Frederick County detained an El Salvadorian woman on the sole basis that they believed she was undocumented.<sup>10</sup> Roxana Orellana Santos was sitting in a public area on her lunch break when two deputy sheriffs in Frederick County surrounded her and demanded identification. When she tried to go back to work, they arrested her and brought her to the sheriff's office, with no justification except that she was undocumented. The Fourth Circuit found that the 287(g) agreement did not give the two deputies the authority to detain Ms. Santos on the basis of her suspected immigration status, and therefore detaining her on that basis violated her Fourth Amendment rights. Although Frederick County had just started their 287(g) program a few months prior the incident,<sup>11</sup> neither of the two deputy sheriffs who detained her was participating in the program, and therefore had no authority to detain Ms. Santos.

In 2012, Frederick County Sheriff's Office stopped a vehicle for speeding in which a family was traveling to visit a friend in Frederick County. The first officer held a drawn gun toward the driver until another officer arrived. The driver and two adult passengers were pulled from the

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<sup>3</sup> See Fact Sheet: Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act, *available at* <https://www.ice.gov/factsheets/287g>

<sup>4</sup> Statement of Sheriff Charles A. Jenkins, Sheriff, Frederick County, Maryland, before the House Committee on Homeland Security, March 4, 2009.

<sup>5</sup> RANDY CAPPS ET AL., MIGRATION POLICY INSTITUTE, DELEGATION AND DIVERGENCE: A STUDY OF 287(G) STATE AND LOCAL IMMIGRATION ENFORCEMENT 21, 19,24 (2011), *available at* <http://www.migrationpolicy.org/pubs/287g-divergence.pdf>.

<sup>6</sup> Frederick County Sheriff's Office, Law Enforcement Bureau 2011 Annual Report 17 (2012), *available at* [https://frederickcountymd.gov/documents/16/41/FINAL%202011%20Annual%20Report%206%2020%2012\\_201207251046271720.pdf](https://frederickcountymd.gov/documents/16/41/FINAL%202011%20Annual%20Report%206%2020%2012_201207251046271720.pdf). (Note that the FCSO does not keep track of how many individuals were actually convicted of those charges.)

<sup>7</sup> Statement of Antonio Ramirez, Frederick, Maryland Community Advocate, before the Joint Hearing on the Public Safety and Civil Rights Implications of State and Local Enforcement of Federal Immigration Laws, April 2, 2009.

<sup>8</sup> Nicholas C. Stern, *Group to sue Frederick County Sheriff for racial profiling*, Frederick News Post, Nov. 9, 2009, *available at* [http://www.fredericknewspost.com/archive/group-to-sue-frederick-county-sheriff-for-racial-profiling/article\\_0faf5116-e7bc-526d-9159-e90264b05a03.html](http://www.fredericknewspost.com/archive/group-to-sue-frederick-county-sheriff-for-racial-profiling/article_0faf5116-e7bc-526d-9159-e90264b05a03.html).

<sup>9</sup> *Delegation and Divergence*, supra, 38-47; *Joint Hearing on the Public Safety and Civil Rights Implications of State and Local Enforcement of Federal Immigration Laws Before the H. Comm. on the Judiciary*, 111th Cong. (April 2, 2009) (statement of Antonio Ramirez, Frederick, Maryland Community Advocate); *see also* Kelsi Loos, , *Frederick County Sheriff's Office promote immigration partnership*, FREDERICK NEWS POST, June 17, 2015 *available at* [http://www.fredericknewspost.com/news/crime\\_and\\_justice/cops\\_and\\_crime/ice-federick-county-sheriff-s-office-promote-immigration-partnership/article\\_8c88bc4b-a40a-58d0-b77c-b470c92e6d95.html](http://www.fredericknewspost.com/news/crime_and_justice/cops_and_crime/ice-federick-county-sheriff-s-office-promote-immigration-partnership/article_8c88bc4b-a40a-58d0-b77c-b470c92e6d95.html)

<sup>10</sup> *Santos v. Frederick Cty. Bd. of Comm'rs*, 725 F.3d 451 (4th Cir. 2013).

<sup>11</sup> *Santos v. Frederick Cty. Bd. of Comm'rs*, 884 F. Supp. 2d 420, 430 (D. Md. 2012) *aff'd in part, vacated in part, remanded*, 725 F.3d 451 (4th Cir. 2013).

vehicle, searched, cuffed and seated on the ground while officers searched the vehicle that contained a 5-year-old child and an infant. The search yielded nothing. The family believes they were racially profiled.

In 2013, a prisoner at the Frederick County Adult Detention Center complained to the ACLU generally about the detention of immigrants there under the 287(g) program; he spoke of friends that were arrested and detained under this policy that had been in detention for about a year and lived in fear of deportation. The prisoner objects to the sheriff's justification for participating in this program and the violation of immigrant detainees' rights.

In 2014, a man suspected by police of drug involvement was stopped by Frederick County officers. He heard the police give a command, but before he was able to respond, an officer threw him to the ground and began to beat him with his fists and knees, causing a fracture below his eye discovered by an x-ray. The man was taken first to central booking before being transported to the hospital for treatment. The reporting officer claimed that the man resisted arrest, but he disputes this.

In 2012, about 104 of the 257 detainers the office issued were against people charged solely with driving without a license (DWL), driving with a suspended license (DWS) and/or driving with a revoked license (DWR). Most of those were simple driving without a license. Another 16 were issued for Failure to Appear (FTA) on an underlying charge of DWL, DWS, or DWR (FTA-DWL, etc.).

Roughly 40 percent of detainers the office issued under the 287(g) program were for driving without a license or with a revoked or suspended license. If we add in the FTA-DWL numbers, that brings the rate closer to 47 percent (46.6). And this doesn't even factor in all the other traffic offenses and other minor charges (false statement, for example, appears repeatedly, as does possession of a false ID, leaving the scene of an accident, etc.).

It appears that in 2013, the pattern in the Sheriff's office did not change. 36 out of 82 (roughly 44%) of individuals processed under the 287(g) program were for DWL (including a few FTA-DWL). However, ICE more frequently either lifted the detainer, granted prosecutorial discretion, or instructed the sheriff's office not to issue a detainer for those cases.

In June 2015, the Sheriff's office stated that of the people they stopped with immigration detainers, 28 were granted prosecutorial discretion, 11 were charged with misdemeanors and only five were charged with felonies.<sup>12</sup>

Frederick County Sheriff Chuck Jenkins is an openly anti-immigrant official. In 2013, two of his deputies killed a young man with Down Syndrome after trying to forcibly remove him from a movie cinema. This came two days after other deputies killed a 19 year old in a home raid.<sup>13</sup>

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<sup>12</sup> Kelsi Loos, *Frederick County Sheriff's Office promote immigration partnership*, FREDERICK NEWS POST, June 17, 2015 available at [http://www.fredericknewspost.com/news/crime\\_and\\_justice/cops\\_and\\_crime/ice-frederick-county-sheriff-s-office-promote-immigration-partnership/article\\_8c88bc4b-a40a-58d0-b77c-b470c92e6d95.html](http://www.fredericknewspost.com/news/crime_and_justice/cops_and_crime/ice-frederick-county-sheriff-s-office-promote-immigration-partnership/article_8c88bc4b-a40a-58d0-b77c-b470c92e6d95.html).

<sup>13</sup> Michael Rosenwald, *Frederick County Sheriff Chuck Jenkins is loathed and loved after Down syndrome death*, WASHINGTON POST, Aug. 3, 2013, available at [https://www.washingtonpost.com/local/frederick-county-sheriff-chuck-jenkins-is-loathed-and-loved-after-down-syndrome-death/2013/08/03/8494e170-f54c-11e2-aa2e-4088616498b4\\_story.html](https://www.washingtonpost.com/local/frederick-county-sheriff-chuck-jenkins-is-loathed-and-loved-after-down-syndrome-death/2013/08/03/8494e170-f54c-11e2-aa2e-4088616498b4_story.html).

Sheriff Jenkins has since made it clear that regardless of ICE's priorities, he wants to "run this [287(g)] program the right way" and arrest individuals regardless of how ICE prioritizes the cases after the sheriff's office hands the case over.<sup>14</sup> "If you're arrested for any crime in my county," Jenkins has said, "we put you in handcuffs and we ask you two simple questions: 'What country were you born in?' and 'What country are you a citizen of?' Everybody is treated the same."<sup>15</sup> After conducting a fact-finding mission to Weslaco, Texas through the Federation for American Immigration Reform, an organization that the Southern Poverty Law Center calls an anti-immigrant hate group, Sheriff Jenkins asserted that the best way to stop the influx of migrants across the border would be through militarization.<sup>16</sup>

### Las Vegas Metropolitan Police Department, Clark County, Nevada

On July 14, 2014, then Clark County Sheriff Doug Gillespie announced that Las Vegas Metro would stop detaining individuals solely based on immigration-detainer requests from Immigration and Customs Enforcement.<sup>17</sup> MSNBC called the announcement "a major win for immigration advocates."<sup>18</sup> Advocacy efforts and litigation calling into question the constitutionality of enforcement led to Sheriff Gillespie's decision.<sup>19</sup>

The long and vigorous fight against enforcement of Las Vegas Metro's 287(g) agreement began in 2009. The initial agreement was signed by Sheriff Gillespie on August 13, 2008 and renewed each year of his tenure as sheriff.<sup>20</sup> The ACLU of Nevada and partner agencies received complaints that individuals were questioned about their immigration status regardless of the type of crime committed or their innocence or guilt. Individuals who had not been arrested and booked in the county jail claimed they were questioned about their status, such as witnesses and victims of crime and persons stopped on the street.

The Nevada Immigrant Coalition worked tirelessly to educate law enforcement and the community about the serious concerns raised by 287(g) agreements. Most notably, the coalition argued that the enforcement of immigration laws is the responsibility of the federal government; that there is serious risk to the community as enforcement of the law could have a chilling effect on immigrants who may hesitate to report crimes out of fear that their immigration status will be questioned; and that enforcement may lead to racial profiling or mistaking the identity of individuals with no identification.<sup>21</sup>

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<sup>14</sup> Kelly Riddell, *Maryland Sheriff frustrated illegals he arrested for crimes freed by feds*, WASHINGTON TIMES, Oct. 7, 2014 available at <http://www.washingtontimes.com/news/2014/oct/7/feds-release-criminal-illegal-immigrants-foil-mary/?page=all>.

<sup>15</sup> Tim Henderson, *More cities, counties defying feds on deportation holds*, TUCSON SENTINEL, Nov. 3, 2014, available at [http://www.tucson sentinel.com/nationworld/report/110314\\_deportations/more-cities-counties-defying-feds-deportation-holds/](http://www.tucson sentinel.com/nationworld/report/110314_deportations/more-cities-counties-defying-feds-deportation-holds/).

<sup>16</sup> Armando Trull, *Frederick Sheriff Chuck Jenkins Calls for Militarization of U.S.-Mexico Border*, WAMU 88.5, July 31, 2014, available at [http://wamu.org/news/14/07/31/frederick\\_sheriff\\_chuck\\_jenkins\\_calls\\_for\\_militarization\\_of\\_us\\_mexico\\_border](http://wamu.org/news/14/07/31/frederick_sheriff_chuck_jenkins_calls_for_militarization_of_us_mexico_border). See also Grace Toohey, *Sheriff's trip funded by alleged anti-immigrant hate group*, FREDERICK NEWS POST, July 16, 2014, available at [http://www.fredericknews post.com/news/politics\\_and\\_government/elections/sheriff-s-trip-funded-by-alleged-anti-immigrant-hate-group/article\\_a6723cb9-29fe-5481-aff5-28f627c50b0b.html](http://www.fredericknews post.com/news/politics_and_government/elections/sheriff-s-trip-funded-by-alleged-anti-immigrant-hate-group/article_a6723cb9-29fe-5481-aff5-28f627c50b0b.html).

<sup>17</sup> Brian Nordli, *Metro won't detain immigrants on ICE requests*, LAS VEGAS SUN, July 14, 2014, available at <http://lasvegassun.com/news/2014/jul/14/metro-wont-detain-immigrants-ice-requests/>.

<sup>18</sup> Amanda Sakuma, *Las Vegas police defy federal immigration policy*, MSNBC, July 14, 2014, available at <http://www.msnbc.com/msnbc/las-vegas-police-defy-federal-immigration-policies>.

<sup>19</sup> Press Release, Clark County Sheriff Places Public Safety Over Politics, Restricts Immigration Holds in County (July 14, 2014), available at <https://www.nilc.org/2014/07/14/nevada-sheriff-restricts-immigration-holds/>.

<sup>20</sup> Memorandum of Agreement Between ICE and Las Vegas Metropolitan Police Department, available at <https://www.ice.gov/doclib/foia/memorandumsofAgreementUnderstanding/287goldlasvegasmppd.pdf>.

<sup>21</sup> ACLU of Nevada, *Las Vegas Metropolitan Police Department's Plan to Enforce Immigration Laws*, <http://www.aclunv.org/las-vegas-metropolitan-police-departments-plan-enforce-immigration-laws> (last visited Mar. 14, 2016).

Las Vegas Metro approaches immigration enforcement on a case-by-case basis and will only honor ICE detainer requests if there is a judicial determination of probable cause. Like other law enforcement agencies across the nation instituting similar policies, Las Vegas Metro's individualized approach demonstrates that 287(g) agreements are unwanted and unnecessary in their jurisdiction.<sup>22</sup>

#### Hudson County Department of Corrections, Hudson County, New Jersey

Since signing the initial 287(g) agreement on August 11, 2008, the Hudson County Department of Corrections has faced numerous complaints regarding its treatment of immigrants in detention. Hudson County Correctional Facility (HCCF) has been ranked one of the top ten worst immigration facilities by national groups—the Detention Watch Network (DWN) and the American Immigration Lawyers Association (AILA) documented in their *Expose and Close* report in 2012 that the facility has had “consistent problems with food, medical care, outdoor recreation, treatment by corrections officers and access to lawyers and visitation.”<sup>23</sup>

Reports of overuse of solitary confinement frequently arise. New York University School of Law Immigrant Rights Clinic conducted first-hand research and investigation through open record requests to county governments that have immigration detention contracts with the federal government, including Essex, Bergen and Hudson County in New Jersey. NYU and the New Jersey Advocates for Immigrant Detainees produced a report in 2015 compiling findings from Bergen and Hudson.<sup>24</sup> The report includes testimony of an immigrant detainee who experienced solitary confinement and described Hudson County's use of solitary and other treatment of immigrant detainees as extremely disturbing and inhumane. Furthermore, the report says “Beyond the practice of artificially extending the legally permissible length of solitary confinement, it is clear that the facilities are issuing inappropriately lengthy sentences overall. In Hudson County, average sentences for “fighting”—a category which the facility interprets to include even minor physical altercations—run almost 13 days, with certain individuals receiving 20, 25, or 30 day sentences.<sup>25</sup> A detainee who has been in solitary confinement for the past 20 days shared that he doesn't want to be there and was told by jail guards that he needs to be in solitary confinement because other detainees have threatened to hurt him. The detainee doesn't agree and doesn't know why. This is another example of the excessive or arbitrary use of solitary confinement.”<sup>26</sup>

Many immigrant detainees' severe medical needs have been neglected at HCCF. Some detainees have come with medical needs and others developed medical needs since incarceration at HCCF, including severe pain from previous surgeries and existing medical conditions, drug dependency, needs for surgeries denied or neglected, released without any needed medications, etc. One detainee who survived cancer had a check-up/follow up in November 2015 but had not received results as of March 11th this year. Approximately 11 complaints regarding severe medical needs

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<sup>22</sup> *Melendres v. Arpaio*, 695 F.3d 990 (9th. Cir. 2012).

<sup>23</sup> DETENTION WATCH NETWORK & AMERICAN IMMIGRATION LAWYERS ASSOCIATION, EXPOSE AND CLOSE (Nov. 2012) <http://www.detentionwatchnetwork.org/sites/default/files/reports/DWN%20Expose%20and%20Close%20Hudson%20County.pdf>.

<sup>24</sup> NEW JERSEY ADVOCATES FOR IMMIGRANT DETAINEES, 23 HOURS IN THE BOX (2015), available at [http://afsc.org/sites/afsc.civactions.net/files/documents/23%20Hours%20in%20the%20Box\\_2.pdf](http://afsc.org/sites/afsc.civactions.net/files/documents/23%20Hours%20in%20the%20Box_2.pdf).

<sup>25</sup> Id.

<sup>26</sup> Detainee report to AFSC.



and neglects were received by a detainee visitation program from just January to March 11, 2016.<sup>27</sup>

These types of complaints are a frequent occurrence, recently on March 11, 2016, American Friends Service Committee received a phone call from a detainee at HCCF. The Detainee reported overcrowding and limited outdoor time stating, “there are four people placed in one cell and they are only given two hours of rec time, from noon to 2:00pm and then kept inside for the rest of the day. The detainee also stated the limited availability of food for purchase and no response from the facility on complaints being provided.”<sup>28</sup> AFSC staff also heard that recently arrived detainees are being placed in new units that are outside of the main building. Conditions in those units are filthy and extremely questionable.<sup>29</sup> In conclusion, conditions have declined even worse this past 6 months and the existing 287(g) agreement should not be renewed.

#### Butler County Sheriff’s Office, Butler County, Ohio

Multiple reports and complaints of ongoing intimidation of the Butler County immigrant community have arisen since the Butler County Sheriff’s Office entered into a 287(g) agreement on February 5, 2008. These reports of intimidation, which began prior to the 287(g) agreement, have occurred outside the Butler County Jail with a sign that points towards the jail stating “Illegal Immigrants Here.” Billboards throughout the community put up by Butler County Sheriff Richard K. Jones share similar sentiments.<sup>30</sup> In 2015, Sheriff Jones established a tip line encouraging individuals to report local businesses they suspect employ undocumented immigrants, pledging to have deputies pursue those tips, ignoring the federal nature of such enforcement.<sup>31</sup> Related to this type of action, in 2007, an undocumented immigrant successfully sued Butler County for violating his constitutional rights, settling for \$100,000 after a worksite he was employed at was visited by sheriffs and 20 people were detained on suspicion of being undocumented. In furtherance of his efforts, Sheriff Jones, in July 2014, sent a letter to the Mexican government insisting it reimburse Butler County Jail for the costs of detaining and imprisoning undocumented immigrants in the United States.<sup>32</sup>

These dangerous actions by Sheriff Jones have created an atmosphere of fear in the county among the local Hispanic community. The ACLU has heard complaints of racial profiling, and news reports support these complaints.<sup>33</sup>

Butler County Jail has also had multiple suicides<sup>34</sup> and deaths<sup>35</sup> in its facility, and while not involving undocumented immigrants, these deaths raise concerns about the safety of all individuals at Butler County Jail.

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<sup>27</sup> Detainees report to AFSC.

<sup>28</sup> Detainee report to AFSC

<sup>29</sup> Detainee report to AFSC.

<sup>30</sup> Julia Preston, *Sheriff Defies Immigrants by Billboard and by Blog*, N.Y. TIMES, July 31, 2006, available at <http://www.nytimes.com/2006/07/31/us/31sheriff.html>.

<sup>31</sup> *Butler County sheriff wants to know who’s employing illegal immigrants*, BUTLER COUNTY JOURNAL-NEWS, Aug. 25, 2015, available at <http://www.journal-news.com/news/news/butler-county-sheriff-wants-to-know-whos-employing/nnQyW/>

<sup>32</sup> Maxim Alter, *Butler County sheriff sends bill to Mexico over costs to jail undocumented migrants*, WCPO CINCINNATI, <http://www.wcpo.com/news/local-news/butler-county/butler-county-sheriff-sends-bill-to-mexico-over-costs-to-jail-undocumented-migrants>

<sup>33</sup> Jennifer Ludden, *Latinos Rattled by Ohio Sheriff’s Mission*, NPR June 19, 2006, available at

<http://www.npr.org/templates/story/story.php?storyId=5478989>; *Butler Co. Sheriff accused of targeting illegal immigrants*, FOX19Now, July 31, 2014, available at <http://www.fox19.com/story/26165768/butler-co-sheriff-accused-of-targeting-illegal-immigrants>.

## Carrollton Police Department, Carrollton County, Texas

Carrollton sits in a region that has a history of hostility towards the immigrant community. It shares a school district with neighboring Farmer's Branch, which spent seven years unsuccessfully litigating an ordinance that would have unconstitutionally banned landlords from renting to undocumented tenants.<sup>36</sup> Like Farmer's Branch, Carrollton has a large Hispanic population.<sup>37</sup> Historically, Carrollton's mayor, city council members, and state representative have supported anti-immigrant measures locally and at the state legislature, although few of those measures ultimately passed.<sup>38</sup> The Hispanic community continues to be underrepresented in various aspects of local government, including in the police force – where only 10% of the police force is part of a minority group, in comparison to 56% of the total community.<sup>39</sup>

These realities are especially troubling given that the Carrollton Jail, which is where the 287(g) agreement is implemented, has little oversight. Because it is a municipal facility, it has no reporting requirements to the state.<sup>40</sup> And, because there is no Intergovernmental Service Agreement with ICE, ICE conducts no Jail Agreement Inspection Report.<sup>41</sup>

## Harris County Sherriff's Office, Harris County, Texas

Houston has been considered the most diverse metropolitan area in the U.S., while Harris County is the second most diverse county in Texas.<sup>42</sup> Despite the diverse population – 42% Hispanics, 32% whites, 19.5% African Americans<sup>43</sup> – Harris County's criminal justice system is committed

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<sup>34</sup> Tom Beyerlein, *Red flags preceded jail suicides*, DAYTON DAILY NEWS, Feb. 9, 2013, available at <http://www.daytondailynews.com/news/news/state-regional-govt-politics/red-flags-preceded-jail-suicides/nWKFC/>.

<sup>35</sup> Denise G. Callahan, *Butler County sheriff sued over jail death*, BUTLER COUNTY JOURNAL-NEWS, Sept. 22, 2014, available at <http://www.journal-news.com/news/news/local/butler-county-sheriff-sued-over-jail-death/nhr87/>.

<sup>36</sup> Dianne Solis, *Supreme Court refuses Farmers Branch immigration ordinance*, DALL. MORNING NEWS, March 3, 2014, <http://www.dallasnews.com/news/community-news/carrollton-farmers-branch/headlines/20140303-supreme-court-refuses-farmers-branch-immigration-ordinance.ece>

<sup>37</sup> Census, QuickFacts: Carrollton City, Texas, <http://www.census.gov/quickfacts/table/PST045215/4813024> (last visited Mar. 14, 2016) (showing 30% Hispanic population in Carrollton in 2010); Census, QuickFacts: Farmers Branch City, Texas, <http://www.census.gov/quickfacts/table/PST045215/4825452,4813024> (last visited Mar. 14, 2016) (showing 45% Hispanic population in Farmers Branch in 2010).

<sup>38</sup> Christy Hoppe, *Hot-button Texas Bills on Airport Patdowns, Immigration Withering*, DALL. MORNING NEWS, June 27, 2011, [www.dallasnews.com/news/politics/texas-legislature/headlines/20110627-hot-button-texas-bills-on-airport-pat-downs-immigration-withering-ece](http://www.dallasnews.com/news/politics/texas-legislature/headlines/20110627-hot-button-texas-bills-on-airport-pat-downs-immigration-withering-ece); Elise Hu, *TX House Bills Would Crack Down on Illegal Immigration*, TEX. TRIB., Nov. 9, 2010, [www.texastribune.org/2010/11/09/bills-would-crack-down-on-illegal-immigration/](http://www.texastribune.org/2010/11/09/bills-would-crack-down-on-illegal-immigration/); *Carrollton Drops Plans for Immigration Task Force*, NBC DFDW, [www.nbcdfw.com/news/local/Carrollton\\_Drops\\_Plans\\_for\\_Immigration\\_Task\\_Force.html](http://www.nbcdfw.com/news/local/Carrollton_Drops_Plans_for_Immigration_Task_Force.html); *Carrollton City Council To Appoint Panel on Illegal Immigration*, WFAA, Oct. 16, 2009, <http://legacy.wfaa.com/story/news/local/2014/08/06/13426480/>; Ralph Blumenthal, *Texas Lawmakers Put New Focus on Illegal Immigration*, N.Y. Times, Nov. 16, 2006, [www.nytimes.com/2006/11/16/us/16immig.html](http://www.nytimes.com/2006/11/16/us/16immig.html).

<sup>39</sup> Mike Maciag, *Where Police Don't Mirror Communities and Why It Matters*, Governing, Aug. 28, 2015.

<sup>40</sup> Brandi Grissom, *City Jails Unregulated Despite Deaths, Complaints*, TEX. TRIBUNE, Sept. 17, 2010, <https://www.texastribune.org/2010/09/17/city-jails-unregulated-despite-deaths-complaints/> (“While county jails answer to the commission and the Texas Department of Criminal Justice is responsible for state prisons, city jails are accountable to no higher authority.”)

<sup>41</sup> E.g., IGSA Between ICE Office of Detention and Removal and Pulaski 10, County [www.immigrantjustice.org/sites/immigrantjustice.org/files/Tri%20IGSA.pdf](http://www.immigrantjustice.org/sites/immigrantjustice.org/files/Tri%20IGSA.pdf).

<sup>42</sup> Michael O. Emerson, Jenifer Bratter, Junia Howell, P. Wilner Jeanty, and Mike Cline, *Houston Region Grows More Racially/Ethnically Diverse, With Small Declines in Segregation: A Joint Report Analyzing Census Data from 1990, 2000, and 2010*, [http://kinder.rice.edu/uploadedFiles/Urban\\_Research\\_Center/Media/Houston%20Region%20Grows%20More%20Ethnically%20Diverse%202-13.pdf](http://kinder.rice.edu/uploadedFiles/Urban_Research_Center/Media/Houston%20Region%20Grows%20More%20Ethnically%20Diverse%202-13.pdf).

<sup>43</sup> Census, QuickFacts: Houston, Texas, <http://www.census.gov/quickfacts/table/PST045215/4835000,48201>. (last visited Mar. 14, 2016).

to policies that target blacks and Hispanics. For example, over-enforcement of low-level drug offenses and immigration enforcement are having a negative impact among those communities.<sup>44</sup>

A new reporting law passed during the last legislative session requires that law-enforcement agencies submit a written report to the Office of the Attorney General on any officer-involved shooting that results in an injury or death. The data from Sept-Dec 2015 show that of the 37% that occurred in the Houston Metro area, 75% of those shot by the Houston Police Department were Black. Going back to 2005, the earliest data available on HPD's website: of roughly 400 people shot at by police since then, just over 50 were white — the rest were almost all Black or Hispanic. Of the 47 people shot at by police in 30 incidents last year, 40 were either Black (26) or Hispanic (14); four were “unknown.”<sup>45</sup>

It is more likely that a traffic stop of a Hispanic driver will lead to an arrest. According to the Houston Police Department's annual racial profiling report, in 2015 they stopped 316,507 vehicles and reported that 44.3% of the drivers were white, 33% were Black and 18.1% were Hispanic. Yet almost 20% of the stops that lead to arrest were of Hispanics and 53% of Blacks in comparison to 25% of whites.<sup>46</sup>

The Harris County Jail has a concerning track record for deaths of inmates, substandard conditions, sexual victimization, and excessive use of force. The Department of Justice is investigating the Harris County jail for the second time in six months<sup>47</sup> over an inmate's death. From 2001 to 2006, 101 inmates died there,<sup>48</sup> at least 72 of whom had not been convicted of a crime. From 2007 to today, there have been an additional 106 deaths.<sup>49</sup>

A review of more than 1,000 jail disciplinary reports found guards used excessive force against inmates or abused their authority over 120 times. Harris County jailers were disciplined more than 120 times for misconduct involving abuse of authority or misuse of force, including beating, kicking and choking inmates. At least 15 inmates were handcuffed at the time of the incident. In 84 of those 120 cases, jailers or supervisors failed to file required reports, lied, or falsified documents.<sup>50</sup>

In 2009 the DOJ finalized an investigation in which they found unconstitutional conditions including inadequate medical care, health care, protection from serious physical harm, and

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<sup>44</sup> REBECCA BERNHARDT, JD, TEXAS CRIMINAL JUSTICE COALITION, HARRIS COUNTY COMMUNITIES: A CALL FOR TRUE COLLABORATION RESTORING COMMUNITY TRUST AND IMPROVING PUBLIC SAFETY (2013), available at <http://www.texascjc.org/sites/default/files/uploads/Harris%20County%20Communities%20A%20Call%20for%20True%20Collaboration.pdf>.

<sup>45</sup> Meagan Flynn, *HPD's Officer-Involved Shootings Almost Always Involve Men of Color*, HOUSTON PRESS, March 9 2016, available at <http://www.houstonpress.com/news/hpds-officer-involved-shootings-almost-always-involve-men-of-color-8226103>.

<sup>46</sup> [http://www.houstontx.gov/police/departments/reports/racial\\_profiling/2015\\_Annual\\_Racial\\_Profiling\\_Report.pdf](http://www.houstontx.gov/police/departments/reports/racial_profiling/2015_Annual_Racial_Profiling_Report.pdf)

<sup>47</sup> Ted Oberg, *Justice Dept. Probes Harris County Jail Inmate's Death*, ABC 13 EYEWITNESS NEWS, Feb. 11, 2005: <http://abc13.com/news/justice-dept-probes-harris-county-jail-inmates-death/513964/>

<sup>48</sup> Steve McVicker, *Six years, 101 deaths in Harris County jails*, HOUSTON CHRONICLE, Feb. 18, 2007: <http://www.chron.com/news/houston-texas/article/Six-years-101-deaths-in-Harris-County-jails-1545025.php>

<sup>49</sup> Ryan Cooper, *How your local jail became hell: an investigation*, THE WEEK, March 25, 2015: <http://theweek.com/articles/540725/how-local-jail-became-hell-investigation>

<sup>50</sup> James Pinkerton and Anita Hassan, *Jailhouse jeopardy: Guards often brutalize and neglect inmates in Harris County Jail, records show*, HOUSTON CHRONICLE, Oct. 3, 2015: <http://www.houstonchronicle.com/news/special-reports/article/Violence-neglect-by-jailers-common-in-county-6548623.php>



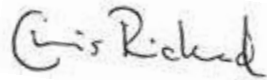
protection from life safety hazards.<sup>51</sup> A 2012 survey from the Bureau of Justice Statistics found that Harris County Jail was among the top jails for sexual victimization of inmates.<sup>52</sup>

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We urge ICE to deny all 287(g) renewals and terminate the program. Immigration enforcement is a federal responsibility and the 287(g) program harms community trust in police and all residents' rights to unbiased law enforcement. The jurisdictions discussed in this letter have records clearly demonstrating that they are unable to avoid racial profiling, discriminatory enforcement, and constitutional violations of excessive force and confinement conditions. It is, moreover, ICE's obligation *before* renewing any agreement to hold and publicize open meetings in the communities that would be affected, to supplement reports such as those detailed here and to ensure that residents in affected communities have an opportunity to weigh in.

Please contact Chris Rickerd, Policy Counsel (202-675-2339 or [crickerd@aclu.org](mailto:crickerd@aclu.org)), with any questions.

Yours sincerely,



Chris Rickerd  
Policy Counsel

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<sup>51</sup> DOJ, Special Litigation Section Case Summaries, <https://www.justice.gov/crt/special-litigation-section-case-summaries> (last visited Mar. 14, 2016).

<sup>52</sup> DOJ BUREAU OF JUSTICE STATISTICS, SEXUAL VICTIMIZATION IN PRISONS AND JAILS REPORTED BY INMATES, 2011-12 (May 2013), available at <http://jdihelpdesk.org/condmodgen/Sexual%20Victimization%20in%20Prisons%20and%20Jails%20Reported%20by%20Inmates,%202011%E2%80%932012%20BJS;%205-2013%29.pdf>.