

I. PURPOSE

The purpose of this policy is to establish guidelines and procedures governing the North Carolina State Highway Patrol (NCSHP) in the enforcement of federal immigration laws as outlined in the Memorandum of Agreement (MOA) between U.S. Immigration and Customs Enforcement (ICE) and NCSHP pursuant § 287(g) of the Immigration and Nationality Act (8 U.S.C. § 1357(g)) and State law. This MOA permits designated Patrol members to perform certain immigration enforcement functions under the authority of the U.S. Department of Homeland Security (DHS).

II. POLICY

It is the policy of the North Carolina State Highway Patrol to participate in the 287(g) program as required by State law to support national immigration enforcement objectives while maintaining community trust and safeguarding civil rights. The Department will cooperate to the fullest extent allowed by law with Immigration and Customs Enforcement of the United States Department of Homeland Security. The Department's participation in the 287(g) program shall comply with all federal law, State law, the 287(g) MOA, and applicable Patrol policies.

III. DEFINITIONS

287(g) Program. A federal program that enables state and local law enforcement agencies to enter into agreements with ICE to enforce certain immigration laws.

IV. AUTHORITY AND OVERSIGHT

The Department's scope of participation in the 287(g) program shall be governed by a signed MOA with ICE. Members designated under this agreement shall

- Complete the appropriate training provided by ICE
- Operate under the supervision of ICE Officers while executing immigration-related duties

The Director of Field Operations responsible for Special Operations shall serve as the 287(g) Program Liaison and shall provide oversight of all 287(g) operations to ensure compliance with applicable legal and policy standards, required training, and ICE reporting requirements.

V. ELIGIBILITY AND TRAINING

Designated members assigned to Commercial Vehicle Enforcement (CVE) and the Criminal Interdiction Unit (CIU) are eligible to participate in the 287(g) program in accordance with the selection criteria listed below and upon the Commander's approval.

Selection Criteria

Members must:

- Be a U.S. citizen
- Be in good standing
- Have two (2) years of law enforcement work experience
- Undergo a thorough background check and qualify for the appropriate federal security clearances

Should a candidate not be approved, a substitute candidate may be submitted if time permits such substitution to occur without delaying the start of training.

Training Requirements

All designated members must complete ICE's mandatory 287(g) training course prior to exercising immigration authority.

Designated members must also complete annual refresher training to maintain certification.

VI. CERTIFICATION AND AUTHORIZATION

ICE will certify in writing the names of those members who successfully complete training and pass all required testing. Upon certification, ICE will provide the designated member with a signed authorization to perform specified functions of an immigration officer for an initial period of two years from the date of the authorization. ICE will also provide a copy of the authorization to the Department. The ICE supervisory officer, or designated team leader, will evaluate the activities of all personnel certified under the signed MOA.

VII. OPERATIONS AND ENFORCEMENT PROTOCOLS

Designated members may perform immigration enforcement functions as authorized under 287(g); however, enforcement actions must be based on lawful criteria and may not be initiated solely on the basis of race, ethnicity, national origin, or language proficiency. Enforcement under this program may not interfere with primary state patrol duties or compromise public safety responsibilities.

Designated CVE and CIU members who are authorized to perform immigration enforcement functions shall attempt to determine whether any individual in their custody or under NCSHP supervision is a legal resident or citizen of the United States or its territories, through inquiry or examination of available documents, or both.

If a designated CVE or CIU member is unable to verify legal residency or citizenship through the methods described above, the member shall initiate a query to U.S. Immigration and Customs Enforcement (ICE).

If it is determined that the individual(s) in custody or under supervision is not a legal resident or citizen of the United States or its territories, the designated CVE or CIU member shall provide ICE with any requested information about the individual.

Non-designated members are not authorized to conduct immigration enforcement under 287(g) authority. Non-designated members shall not stop, detain or arrest any person based upon that person's immigration status or suspected immigration status.

VIII. COMPLAINT PROCEDURES

Complaint Reporting and Resolution Under the MOA

Under the terms of the Memorandum of Agreement (MOA) between ICE and the North Carolina State Highway Patrol, selected personnel may perform immigration enforcement functions under federal authority. These activities are subject to oversight to protect civil and constitutional rights. All complaints involving designated personnel must be promptly reported to ICE, and such personnel must be removed from MOA-related duties pending resolution if the complaint may result in discipline, criminal investigation, or civil litigation.

Complaints may be submitted by any source and reported to:

- ICE Office of Professional Responsibility (OPR) at 1-833-4ICE-OPR or ICEOPRIntake@ice.dhs.gov;
- SHP Internal Affairs; or
- A supervisor of participating personnel.

All complaints involving MOA-related enforcement must be reported to ICE OPR, which will assess jurisdiction and refer matters accordingly. ICE OPR and SHP Internal Affairs will coordinate investigations, which may include joint action.

Complaints will be resolved in accordance with standard procedures, subject to the following provisions:

- ICE OPR may refer SHP personnel complaints to SHP Internal Affairs, which will report back on the resolution.
- The Department may remove personnel from MOA duties during investigations.
- Resolution is expected within 90 days, subject to complexity.
- Complainants will be notified of the outcome as appropriate.
- Complaints involving non-designated SHP personnel engaging in immigration enforcement will be handled by SHP Internal Affairs. The Unit Commander of Internal Affairs will notify ICE OPR of the complaint.

IX. COMPLIANCE AND DISCIPLINE

Failure to comply with the provisions of this policy or the terms of the MOA may result in removal from the program and/or disciplinary action in accordance with NCSHP policy and applicable State personnel regulations.

Unauthorized Immigration Enforcement Activity

Non-designated members shall not stop, question, detain, or take enforcement action against any individual based solely on their actual or suspected immigration status. Such actions exceed the scope of authority granted under state and federal law and are strictly prohibited. Any violation of this provision may subject the member to disciplinary action, up to and including termination, in accordance with NCSHP policy, State personnel regulations, and applicable law.