



May 12, 2025

Sheriff Fred Harran
Bucks County Justice Center
100 N Main Street
Floor B2
Doylestown, PA 18901

VIA FIRST CLASS MAIL AND E-MAIL [REDACTED]

RE: 287(g) application to ICE

Dear Sheriff Harran:

The ACLU-PA is a nonprofit, nonpartisan, membership organization that serves as an enduring guardian of justice, fairness, and freedom, working to protect civil liberties and advance equity for all. The Community Justice Project (CJP) is a non-profit legal aid program that represents the interests of low-income Pennsylvanians across the Commonwealth in matters affecting basic needs or civil rights.

We are writing because the ACLU-PA has received complaints, and CJP represents a client with concerns, regarding your application on behalf of the Bucks County's Sheriff's Office (the "Sheriff's Office") to enter into a 287(g) agreement with U.S. Immigration and Customs Enforcement ("ICE"). As explained below, you do not have the legal authority under Pennsylvania law to enter, unilaterally, into this agreement with ICE; only the county commissioners can so bind Bucks County. Accordingly, we ask that you immediately withdraw your application and advise ICE that absent county commissioner approval, your application is legally null and void.

I. Background

Our investigation has revealed that, in or around April 2025, you signed a 287(g) "task force model" agreement with ICE on behalf of the Sheriff's Office. If approved by ICE, this agreement would purport to deputize officers of the Sheriff's Office to perform many of the immigration enforcement functions of ICE officers. Based on our review of the Bucks County Commissioners' past meeting minutes and Bucks County's response to a May 6, 2025, Right to Know request that we submitted, it appears that you signed this agreement without the Bucks County Commissioners passing any resolution or ordinance authorizing you to do so.

II. The Sheriff's Office Does Not Have Legal Authority to Enter into the 287(g) agreement.

The Sheriff's Office cannot lawfully enter into a 287(g) agreement with ICE without the Bucks County Commissioners passing a resolution or ordinance authorizing such an agreement. Under both Article 9, § 5 of the Pennsylvania Constitution and the Pennsylvania Intergovernmental Cooperation Act ("ICA"), 53 Pa.C.S.A. § 2301 *et seq.*, a county law enforcement agency may enter into an intergovernmental cooperation agreement with the federal government *only* when the county's board of commissioners has enacted a resolution or ordinance approving the terms of such an agreement.

Specifically, under both Article 9, § 5 of the Pennsylvania Constitution and the ICA, 53 Pa.C.S.A. § 2304, "[a] municipality *by act of its governing body* may . . . cooperate or agree in the exercise of any function, power or responsibility with, or delegate or transfer any function, power or responsibility to, one or more other governmental units including . . . the Federal government." (Emphasis added).¹ Section 2305(a) of the ICA clarifies that such an act requires the formal "passage of an ordinance or resolution by [the municipality's] governing body," which must contain the information and comply with the procedural steps specified in sections 2307 and 2314(a). *See also Commonwealth v. Hlubin*, 652 Pa. 545, 559, 208 A.3d 1032, 1039 (2019) ("[A]ny agreement for intergovernmental cooperation necessitates that the governing body of the municipality must pass an ordinance with respect to said agreement.").

A 287(g) agreement setting out the terms of intergovernmental cooperation between the Sheriff's Office and ICE clearly falls within the ICA's scope. The "governing body" of Bucks County is the Board of Commissioners, not the Sheriff's Office. *See* 16 Pa.C.S.A. § 1122; *see also Monastra v. Delaware Cnty. Sheriff's Off.*, 49 A.3d 556, 558 (Pa. Commw. Ct. 2012) (the sheriff's office is not a "legal entit[y] separate" from the county). Thus, the Bucks County Sheriff's Office cannot enter into a 287(g) agreement with ICE without authorization from the Bucks County Board of Commissioners, and any such agreement, even if approved by ICE, would be void. *See Summit Twp. Indus. & Econ. Dev. Auth. v. Cnty. of Erie*, 980 A.2d 191, 209 (Pa. Commw. Ct. 2009) ("[F]ailure to adopt an ordinance [under the ICA] 'renders an intergovernmental agreement void.'" (quoting *Stein v. Department of Transportation*, 857 A.2d 719, 724 (Pa. Cmwlth. 2004))); *see also Com. v. Mescolotto*, No. 3209 EDA 2013, 2014 WL 10795091, at *3 (Pa. Super. Ct. Oct. 10, 2014). Absent a resolution or ordinance from the Bucks County Board of Commissioners authorizing the 287(g) agreement, the Sheriff's Office is without legal authority to proceed with the agreement.

III. Requested Action

Since the Sheriff's Office lacks authority to enter unilaterally into a 287(g) agreement with ICE, we are respectfully requesting that you immediately notify ICE in writing that you are withdrawing your office's application. If you proceed and ICE approves the 287(g) application, we will have no choice but to take necessary steps to enjoin the agreement and actions taken thereunder. Bucks County taxpayers will be on the hook for litigation costs and any liability

¹ A "municipality" under this section includes counties. *See* Pa. Const. Art. 9, § 14.

incurred for unauthorized actions taken by your office. If you would like to discuss this matter further, please contact Mr. Walczak at [REDACTED] or [REDACTED].

Respectfully,

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Cc: Board Chair Robert Harvie Jr. (via email)
Commissioner Diane Marseglia (via email)
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