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U.S. Department of Homeland Security
Office for Civil Rights and Civil Liberties
Review and Compliance
245 Murray Lane, S.W.
Building 410, Mail Stop #0190
Washington, D.C. 20528

RE: American Civil Liberties Union of Georgia’s Formal Complaint on 287(g) Abuse and Racial Profiling in Gwinnett and Cobb Counties in Georgia

The ACLU of Georgia has compiled two reports on two 287(g) counties in Georgia—namely, Cobb and Gwinnett—and documented abuse and racial profiling that warrant an investigation by the DHS Office for Civil Rights and Civil Liberties and the termination of the program in these two counties. The Gwinnett County report highlights the continuing problem of racial profiling which has escalated since the implementation of 287(g), because it is clear that many Latino community members are stopped by police officers on pre-textual grounds.¹ The Cobb County report demonstrates that implementation of 287(g) has led to racial profiling and civil rights and civil liberties violations.²

I. Written description of the specific circumstances of the alleged violation

The stated purpose of the 287(g) program is to facilitate collaboration between local officers and Immigration and Customs and Enforcement (ICE), so local officers have the “necessary resources and latitude to pursue investigations relating to violent crimes, human smuggling, gang/organized crime activity, sexual-related offenses, narcotics smuggling and money laundering.”³ On July 30, 2010, ICE released a memorandum outlining “the civil immigration enforcement priorities of ICE as they relate the apprehension, detention, and removal” of

¹ See generally, American Civil Liberties Union of Georgia, THE PERSISTENCE OF RACIAL PROFILING IN GWINNETT TIME FOR ACCOUNTABILITY, TRANSPARENCY, AND AN END TO 287(G) (November 2009), available at <http://www.acluga.org/GwinnettRacialReportFinal1.pdf> [hereinafter Gwinnett Report].

² See generally, American Civil Liberties Union of Georgia, TERROR AND ISOLATION IN COBB HOW UNCHECKED POLICE POWER UNDER 287(G) HAS TORN FAMILIES APART AND THREATENED PUBLIC SAFETY (October 2009), available at <http://www.acluga.org/racial%20profiling%20Cobb.pdf> [hereinafter Cobb Report].

³ U.S. Immigration and Customs Enforcement, *Delegation of Immigration Authority Section 287(g), Immigration and Nationality Act*, available at http://www.ice.gov/pi/news/factsheets/section287_g.htm (last visited March 18, 2010) [hereinafter ICE 287(g) Program].

unauthorized immigrants.⁴ The first priority level relates to unauthorized immigrants who pose a danger to national security or a risk to public safety.⁵ The second priority level relates to recent unauthorized entrants.⁶ The third priority level relates to unauthorized immigrants who are fugitives or otherwise obstruct immigration controls.⁷

However, the Gwinnett and Cobb County reports document accounts that illustrate that the stated 287(g) program priorities are not being adhered to, because as local officers engage in racial profiling and stop Latinos and immigrants on pre-textual grounds, minor traffic violations are often the pretext relied upon to detain immigrants. In the course of conducting arrests or detentions, the officers have also denied language access, performed illegal searches, used excessive force, and engaged in misconduct.

A. Gwinnett County

The attached Gwinnett County report documents lack of adherence to 287(g) priorities through conducting pre-textual stops also affecting U.S. citizens and Legal Permanent Residents as well as civil rights violations.⁸ The report shows “that police officers are targeting immigrants and people of color for stops, searches, and interrogations,” under the guise of traffic violations.⁹

i. *Additional Accounts*

Karla¹⁰ has lived in the U.S. for 15 years.¹¹ In January 2010, Karla was stopped around 5:00 p.m. as she was returning from the grocery store on Williams Road near Singleton Road.¹² The Gwinnett County police officer was on a side street when he saw her and started to follow.¹³ Karla asked the police officer what she had done and he replied “nothing.”¹⁴ Karla insisted: “Why are you stopping me then?” He replied: “You know why, you don’t have a driver’s license; this is indicated in my system.”¹⁵ Karla was given a ticket citation for driving without a driver’s license and was arrested. Karla was not read her Miranda rights nor was she notified of her right to contact her consular officer.¹⁶ Karla went to traffic court and paid her fine including a \$20 charge for interpretation services.¹⁷ Karla thinks she was “stopped due to racial profiling because [the police] know this area is all Hispanic. [She has] a valid tag, insurance, all [her]

⁴ U.S. Immigration and Customs Enforcement, *Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens*, available at http://www.ice.gov/doclib/civil_enforcement_priorities.pdf (last visited August 18, 2010).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *See generally*, Gwinnett Report.

⁹ Gwinnett Report at 5.

¹⁰ In order to respect the interviewee’s wishes to remain anonymous, only her first name is used.

¹¹ Interview with Karla in Gwinnett County (July 24, 2010).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

lights were working and was driving properly.”¹⁸ Karla does not feel safe in her community due to police harassment and is reluctant to call the police due to her immigration status.¹⁹

José Mata Jimenez has lived in the U.S. for 17 years.²⁰ On December 22, 2009, José was stopped on Dawson Road when he leaving work.²¹ The Gwinnett County police officer was heading in the same direction as José when at the Jimmy Carter Road cross-section, the police officer stopped several feet before the light and then changed lanes to get behind José.²² According to José: “It was racial profiling, because I was not doing anything wrong.”²³ José received a ticket for a suspended driver’s license and was arrested.²⁴ José does not feel safe in this community and moved to the county border with DeKalb County in an attempt to avoid certain areas of Gwinnett County due to police harassment.²⁵

B. Cobb County

Latinos and “foreign looking” persons are subjected to meritless traffic stops and baseless arrests by Cobb police officers.²⁶ In 2008, the jail processed 3,180 inmates for deportation of which almost 69% were for traffic violations.²⁷ Furthermore, most traffic violations for which immigrants have been arrested and detained could have only been discovered after the stop, such as driving without a license.²⁸

The attached Cobb County report documents abuse of the 287(g) power through lack of adherence to 287(g) priorities and engaging in pre-textual stops and a myriad of civil rights violations.²⁹

i. Additional Account

Jessica Colotl is a 21-year-old smart hard working student at Kennesaw State who has worked nights in order to pay her tuition and hopes to become a lawyer.³⁰ In late March, as Jessica Cotel pulled into her university parking lot, a campus police officer pulled her over, telling her that she was “impeding the flow of traffic.”³¹ She could not produce a license due to her undocumented status and eventually ended up at the Cobb County jail and this is when 287(g) kicked in.³²

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Interview with José Mata Jimenez in DeKalb County (July 25, 2010).

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ Cobb Report at 10.

²⁷ I.C.E Historical O/R Report provided by the Cobb County Sheriff’s Office pursuant to Open Records Act Request.

²⁸ *Id.*

²⁹ *See generally*, Cobb Report.

³⁰ Rhonda Cook and Andria Simmons, *Illegal immigrant KSU student hopes to stay in U.S.*, A.J.C., May 14, 2010, available at <http://TEST.ajc.com/news/illegal-immigrant-ksu-student-483440.html>.

³¹ *Id.*

³² *Id.*

Jessica was placed in deportation proceedings.³³ Before long, she found herself behind bars at the Alabama Detention Center, awaiting deportation to Mexico, a country she has not lived in for over 10 years and which she hardly remembers.³⁴ Jessica was only released after strongly voiced and sustained demands by the community, including her sorority sisters, and after the ACLU contacted the DHS headquarters on her behalf, as her placement in deportation proceedings was clearly out of line with 287(g) priorities.³⁵ But Cobb County Sheriff Neil Warren obtained a new warrant for her arrest a few days after she was released, saying she lied about her address when she was booked into jail following her initial arrest.³⁶ Jessica is currently out on bond and hopes to resume her education.³⁷

II. **Relevant documents**

Enclosed or attached, please find the ACLU of Georgia reports.

III. **Summary of other steps taken, if any, to resolve this complaint**

The ACLU of Georgia has made attempts to inform Gwinnett and Cobb counties of the racial profiling and abuse of 287(g), to no avail. Neither county has adopted a comprehensive non-racial profiling policy for their police officers. When the Cobb County report came out, it was sent to the Cobb County Commissioners to dissuade them from renewing their 287(g) Memoranda of Agreement with ICE; but they decided to go ahead and renew. The Gwinnett County Commissioners have also been unresponsive to the report. The sheriffs in both counties have been wholly dismissive of the report and the accounts contained therein.

The ACLU of Georgia is in touch with the Department of Justice Civil Rights Division, which has initiated an informal investigation into practices in Cobb and Gwinnett.

The ACLU of Georgia has also been in touch with the Department of Homeland Security Office for Civil Rights and Civil Liberties; we were advised to submit a formal complaint.

IV. **Conclusion**

The 287(g) program in Cobb and Gwinnett has encouraged and served as a justification for racial profiling and civil and human rights violations by some police officers acting as immigration agents. As the ACLU of Georgia reports show, police officers have misused the power granted to them under the agreement by engaging in racial profiling of the Latino and immigrant communities. Given the reports and documentation of continuing instances of racial profiling and abuse of the 287(g) power, it is clear that many Latino community members in Gwinnett and Cobb counties have been stopped without probable cause or reasonable suspicion. Even citizens are scared to contact the police, because they feel that the police officers are focused on apprehending immigrants. The programs lack the proper oversight mechanisms on the state or

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

local levels, and allow for abuse of power by police officers who are not well trained. Therefore, the 287(g) agreement must be terminated in Gwinnett and Cobb.

Please do not hesitate to contact me by phone or email if I can help provide additional information about this complaint. Thank you in advance for your attention to this matter.

Sincerely,

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Encl: The American Civil Liberties Union of Georgia, THE PERSISTENCE OF RACIAL PROFILING IN GWINNETT TIME FOR ACCOUNTABILITY, TRANSPARENCY, AND AN END TO 287(G) (November 2009); and The American Civil Liberties Union of Georgia, TERROR AND ISOLATION IN COBB HOW UNCHECKED POLICE POWER UNDER 287(G) HAS TORN FAMILIES APART AND THREATENED PUBLIC SAFETY (October 2009).