



U. S. Department of Justice

Office of the Deputy Attorney General

Associate Deputy Attorney General

Washington, D.C. 20530

July 3, 2002

→ Tim Moore
Orig. Pargyur files

Kas

Kathleen Shanahan, Chief of Staff
Office of the Governor
PL05 The Capitol
Tallahassee, FL 32399

Dear Ms. Shanahan:

Enclosed is a copy of the signed Memorandum of Understanding between the Department of Justice and the State of Florida. We look forward to working with you in this important and historic endeavor. Please feel free to contact me at (202) 514-2269 if I can be of any assistance as we move forward.

Sincerely,

Stuart A. Levey
Associate Deputy Attorney General

Enclosure

RECEIVED

JUL 10 2002

Governor's Office

RECEIVED

JUL 12 2002

Office of the Commissioner

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) constitutes an agreement between the United States Department of Justice (DOJ) and the State of Florida to create a pilot project pursuant to which the Immigration and Naturalization Service (INS) authorizes 35 state and local law enforcement officers working specifically as part of the State of Florida's Regional Domestic Security Task Forces (RDSTFs) to perform certain immigration officer enforcement functions as specified herein. The Florida Department of Law Enforcement (FDLE) represents the State of Florida in the implementation and administration of this MOU.

It is the intent of this pilot project to address the counter-terrorism and domestic security needs of the nation and the State of Florida by enhancing those efforts through the authorization of selected state and local law enforcement officers associated with the RDSTFs established under Florida state law to perform certain functions of an immigration officer. The efforts of officers so authorized under this MOU shall remain focused on counter-terrorism and domestic security goals.

I. PURPOSE

The purpose of this MOU is to set forth the terms and conditions under which a pilot project in Florida will be conducted concerning the authorization of state and local law enforcement officers (participating state and local officers) assigned to the RDSTFs to perform certain functions of an immigration officer, and how those participating state and local officers will be nominated, trained, authorized, and supervised in conducting specified functions of an immigration officer.

Nothing herein shall otherwise limit the jurisdiction and powers normally possessed by a participating officer as a member of the officer's employing state or local law enforcement entity (employing entity). Nothing herein shall otherwise limit the ability of participating RDSTF members to provide, as provided by or allowed by law, such assistance in any enforcement action unrelated to RDSTF operations as may be lawfully requested by a law enforcement officer having jurisdiction over any such incident, crime, or matter under consideration. However, the exercise of federal immigration authority pursuant to this MOU shall occur only as provided in this MOU.

II. AUTHORITY

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA), Public Law 104-208, enacted on September 30, 1996, amended the Immigration and Nationality Act by adding § 287(g), 8 U.S.C. § 1357(g), to that Act. Section 287(g)(1) permits the Attorney General to enter into written agreements with a state or any political subdivision of a state so that qualified state (or state subdivision) officers can perform certain functions of immigration officers. This MOU constitutes such a written agreement.

III. POLICY

This MOU sets forth the scope of the immigration officer functions that INS is authorizing the participating state and local officers to perform. It sets forth with specificity the duration of the authority conveyed and the specific lines of authority, including the requirement that participating state and local officers be subject to the direction and supervision of the INS while performing immigration-related duties pursuant to this MOU.

Before participating state and local officers will be authorized to perform immigration-officer functions, the participating state and local officers must successfully complete mandatory training in the enforcement of federal immigration laws and policies as provided by INS instructors and pass examinations equivalent to those given to INS officers. This MOU further sets forth requirements for regular evaluation of this project.

As part of their commitment to the communities they serve, FDLE and all employing entities will work to communicate the intent, focus, and purpose of this project to organizations and groups representing the interests of persons who may be affected by the investigative activity conducted under the authority of this MOU. This MOU also describes the complaint procedures available to members of the public regarding actions taken by officers pursuant to this agreement.

Only participating state and local officers who are selected, trained, authorized and supervised as set out herein have authority pursuant to this MOU to conduct the immigration-officer functions enumerated in this MOU.

The INS and the FDLE points of contact for purposes of this MOU are identified in Appendix A.

IV. DESIGNATION OF FUNCTIONS

For the purposes of this MOU, the functions that may be performed by the participating state and local officers are indicated below with their associated authorities:

| AUTHORITY | FUNCTIONS |
|--|--|
| <ul style="list-style-type: none"> • Section 287(a)(1) – power to interrogate any alien or person believed to be an alien as to his right to be or remain in the United States • Section 287(a)(2) – power to arrest (without warrant) any alien in the United States, if the officer has reason to believe the alien to be arrested is in the United States in violation of law • Section 287(a)(4) – power to arrest (without warrant) for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, expulsion, or removal of aliens • Section 287(b) – power and authority to administer oaths and to take and consider evidence • 8 CFR 287.5(a)(1) – interrogate any alien or person believed to be an alien as to his right to be or remain in the United States • 8 CFR 287.5(a)(2) – administer oaths and to take and consider evidence • 8 CFR 287.5(c)(1) – arrest of aliens under section 287(a)(2) of the Act for immigration violations • 8 CFR 287.5(a)(2) – arrest of aliens under section 287(a)(4) of the Act for felonies regulating the admission or removal of aliens • 8 CFR 287.7(a) – detainees in general • INA § 236 – transportation | <ul style="list-style-type: none"> • Interrogate in order to determine probable cause for an immigration arrest • Complete required arrest reports and forms • Prepare immigration detainees • Prepare affidavits and take sworn statements • Transport aliens under arrest • Notify INS of any arrests made under this authority within 24 hours • Prepare a Notice To Appear (NTA) application for signature • Assist in pre-arrest and post-arrest case processing of individuals taken into custody by INS, including: fingerprinting, photographing, interviewing, etc. <p style="margin-left: 20px;">Detain arrested aliens in INS approved detention facilities</p> |



CITY OF COSTA MESA

CALIFORNIA 92628-1200

P.O. BOX 1200

FROM THE OFFICE OF THE CITY CLERK

**IF YOU ARE INTERESTED IN VIEWING THE REMAINDER
OF THE THIS DOCUMENT
PLEASE CONTACT THE CITY CLERK'S OFFICE
AT (714) 754-5221**