



Workers Defense Project
Proyecto Defensa Laboral

June 22, 2020

To the Williamson County Commissioners Court:

As you may be aware, the Williamson County Sheriff's Office Memorandum of Understanding re-signed last year by Sheriff Chody with Immigration and Customs Enforcement for the 287(g) program will expire on June 30, 2020. This agreement contributes Williamson County resources to the ongoing devastation of our immigrant communities.

Under 287(g), Williamson County Sheriff's Office delegates officers in the jail to conduct civil immigration enforcement actions for ICE. The 287(g) program dangerously implicates Williamson County in the business of profiling, detaining, and deporting our immigrant family members, neighbors, and loved ones. 287(g) also suffers from poor oversight and transparency, undermines public safety, wastes county resources, and opens the county up to the risk of litigation. This agreement increases the likelihood of permanent and painful family separation while fomenting further fear and distrust in the community at taxpayer expense.

We urge you to recommend that renewal of Williamson County's 287(g) agreement be immediately added to the County Commissioners Court's agenda, and that the County forbid the Sheriff from renewing the contract. This program implicates controversial political and social considerations that demand transparency and public input, not behind closed doors agreements between the sheriff and unaccountable federal agencies.

Given the ongoing issues at the Williamson County Sheriff's Office, including serious allegations of excessive use of force by the department in the Javier Ambler case, concerns about contracts signed against the will of the Commissioners Court with Live PD, and the national discussion about the role of law enforcement in our communities, we urge you to use your power to ensure that Williamson County no longer participates in this program that is detrimental to our community.

A. 287(g) was implemented without public input and continues to lack transparency and oversight.

There was no adequate effort to educate elected officials and the Williamson County community about 287(g) prior to signing the original agreement in February 2018, or renewing it last year. The 287(g) program costs Williamson County hundreds of thousands of dollars each year in salaries, on top of the social costs of alienation of the immigrant community and the social services costs of caring for the

citizen children of immigrants whom Williamson County has deported. 287(g) is a dangerous program that increases racial profiling and undermines the community's access to safety and justice.

In fact, a lack of transparency and public accountability is inherent to the way ICE operates. In 2018, the U.S. Department of Homeland Security Office of Inspector General (OIG) investigated ICE's expansion, management, and oversight of 287(g) programs nationwide, and consistently found poor compliance with the Memorandums of Agreement, inadequate training provided to the local law enforcement agencies, and a general lack of transparency and accountability. Insufficient oversight and accountability is evident in the intent and impact of 287(g), making it a dangerous policy for Williamson County.

B. The County Court must oversee and take charge of decisions on 287(g).

It is imperative that the County Commissioners Court make the final decision on the renewal or continuation of the 287(g) agreement with ICE. The Sheriff's agreement and renewal of the 287(g) MOU with ICE without submission to the Commissioners Court contradicts legal guidance. The Commissioners Court is the governing body and has sole authority to enter contracts for the county, absent a specific statute to the contrary. Governor and former Texas Attorney General Greg Abbott wrote in an advisory opinion in 2004 that "In the absence of a statute authorizing another county official to enter into a contract, the commissioners court has the sole authority to enter into contracts binding the county."

See Opinion No. GA-0229, August 9, 2004. Citing the Texas Supreme Court in *Anderson v. Wood*, 152 S.W.2d 1084, 1085 (Tex. 1941), the opinion stated: "It is well established in Texas law that the commissioners court, as the governing body of the county, is the general business and contracting agency of the county, and it alone has authority to make contracts binding on the county, unless otherwise specifically provided by statute." (internal quotations omitted). An example of this is the specific exception in Tex Loc. Gov't. Code Ann. Sec. 351.0415 which provides that the sheriff can choose to contract with someone to run the jail commissary. "Absent an express statute, the authority to enter into contracts regarding the county jail's operation rests with the commissioners court." Opinion No. GA-0229 p. 3.

C. The 287(g) program contributes to the spread of COVID-19 by transferring potentially infected individuals into ICE detention.

As we fight a global pandemic, we are faced with the reality that to protect our society as a whole, we must protect our most vulnerable. This is especially true for those who are detained in jails, prisons, and immigration detention centers in communities across the country. Protecting the health of those within locked facilities is critical to the health of the greater community. These facilities are likened to tinderboxes because an outbreak in a detention center can quickly spread beyond its walls: hundreds of people move in and out of facilities daily (people begin and finish their sentence, staff and guards change shifts, vendors deliver supplies). Combining the worst aspects of a cruise ship and nursing home, the virus will spread like wildfire in and out of the facility. Due to their conditions, overcrowding and limited resources, jails, prisons, and immigration detention centers, are at risk of becoming massive outbreak centers of COVID-19. People who live and work in secure facilities face a higher risk of getting

COVID-19 and spreading it to surrounding communities – as has already been a source of panic in [Frio County](#).

ICE has done only limited testing of detainees in their custody, but in May reported a 60% rate of infection among those tested. At least two people detained by ICE have died of COVID-19, with 943 people testing positive out of 1788 tested as of May 13. ICE has released only a few people from custody, and those have largely been achieved by hard fought court orders. Moreover, ICE has continued to transfer people in its custody across the country between different detention facilities. Epidemiological models estimate that at least 70% of people detained by ICE could contract the virus; another model warns that overall, mass incarceration could lead to an additional 100,000 COVID-19 deaths in the U.S.

Other counties have recently ended or suspended their 287(g) agreements in light of the COVID-19 pandemic, including [Washington County, Arkansas](#) and Prince William County, Virginia.

D. 287(g) targets immigrant residents and workers in Williamson County to the detriment of community safety.

ICE attests that the goal of 287(g) is to remove undocumented persons “who are involved in violent and serious crimes.” However, a 2010 study of multiple counties found that 50% of all immigration detainees issued via 287(g) were people arrested for traffic violations or low-level misdemeanors. 287(g) targets undocumented people no matter the crime or offense instead of protecting communities from serious or violent crimes. It is well corroborated that there is no link between immigration and high rates of crime, and that immigrants have slightly lower crime rates. A 2019 analysis from Pew Research Center found undocumented immigrants are “associated with marginally lower violent crime rates” and a “statistically significant negative correlation was also shown for property crimes.” In fact, Prince William County in Virginia [recently ended their 287\(g\) agreement](#); the Police Chief stated “I’m not seeing any hard data where the 287g program has been shown to be the direct cause of any measurable crime reduction, I do wonder if this program has run its course.”

Aggressive immigration enforcement programs like 287(g) inevitably compound fear and mistrust of Williamson County police in immigrant neighborhoods, as well as communities all over the country. County residents have expressed feeling more at risk in their own home than in neighboring counties that have ended these aggressive enforcement policies. In a 2013 study, “44 percent of Latinos surveyed reported they are less likely to contact police officers if they have been the victim of a crime” when there is greater police involvement in immigration enforcement. This makes it harder for local police to investigate crimes and protect victims. Immigrant communities become even more vulnerable to crime because of increased distrust of local law enforcement and a reduction of reporting crime. 287(g) has no place anywhere, especially in a county where 6% of the population does not have U.S. citizenship, 12% are immigrants, and 24% identify as Hispanic or Latino.

C. 287(g) opens Williamson County to liability for racial profiling and due process violations

The program increases the risk for racial profiling and discrimination by granting local law enforcement discretionary authority to act as ICE officers. Patterns of racial profiling have led to investigation or

lawsuit by the U.S. Department of Justice, and eventual termination of 287(g) agreements in Maricopa and Alamance Counties. After Williamson County's implementation of the 287(g) program in February 2018, Racial Profiling Reports show that the percentage of arrests of Hispanic people has increased by 5% compared to 2017. Additionally, when immigrants are transferred to ICE detention, they are, in effect, denied their right to equal protection and a day in court to defend or appeal their criminal case. By participating in a program that allows and encourages local law enforcement to target undocumented people, Williamson County is creating an environment that could lead to constitutional violations.

D. 287(g) is an expensive diversion of county tax dollars from local priorities.

287(g) spends the county's limited resources in a strategy that has not been independently proven to decrease crime. According to the most recent [Texas Commission of Jail Standards Immigration Detainer Report](#), in May 2020 alone, Williamson County spent \$103,905.92 on holding 39 people for 907 days for ICE. In addition, the federal government never fully reimburses state and local governments for their detention expenses. When Harris County ended its 287(g) agreement in 2017, Sheriff Gonzalez acknowledged that terminating the program would save hundreds of thousands of dollars per year. Taxpayer dollars, as well as the time and attention of local law enforcement, should be prioritized for local needs, not spent on collaboration with an agency notorious for rights violations.

E. Williamson County can choose to end 287(g) and focus on core county functions and rebuild trust with immigrant community members.

The 287(g) program is a contract with ICE that can be terminated at any time, whether or not Sheriff Chody has already added his signature to ICE's agreement this year or not.

This is a pivotal moment at which the Williamson County Commissioners Court can choose policies that benefit all its residents over those that divert public safety resources to promote fear and divisiveness. The Police Executive Research Forum, the Police Foundation, and the Major Cities Chiefs Association all support a firewall separating immigration enforcement and state or local criminal justice functions. The 287(g) program flies in the face of these recommendations from law enforcement leaders. Instead, it puts local police at the center of a complicated and hot-button political issue, to the detriment of all Williamson County residents.

For these reasons we urge the Williamson County Commissioners Court to end the county's participation in the 287(g) program.

Sincerely,

Free Souls Church
Grassroots Leadership
Immigrant Legal Resource Center
Workers Defense Project