



AMERICA FIRST LEGAL

LAW ENFORCEMENT OFFICER IMMIGRATION COOPERATION GUIDE



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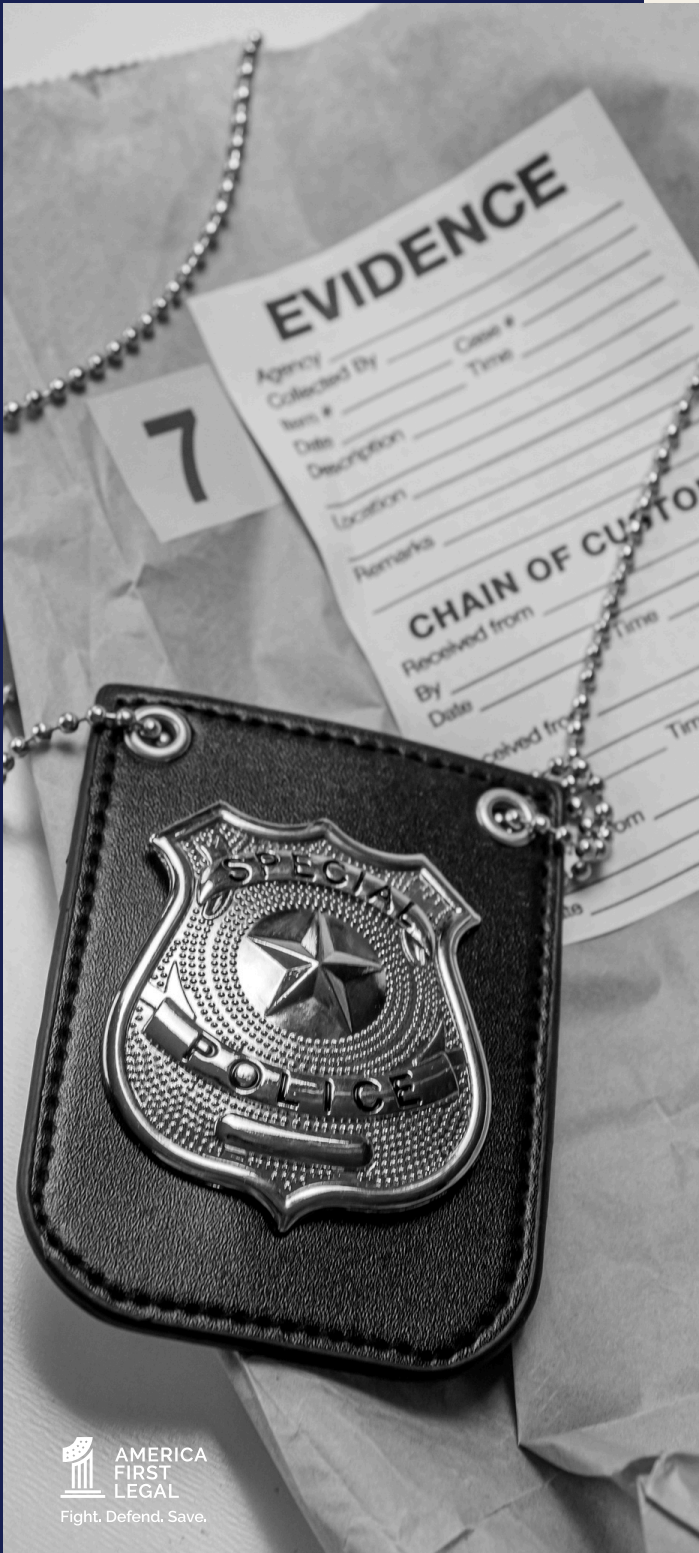
INTRODUCTION

This resource is intended for informational purposes only and is not a substitute for legal advice. Any person with questions about his specific circumstances should consult a qualified attorney.

INTRODUCTION

America First Legal Foundation (AFL) is a nonprofit organization dedicated to promoting the rule of law in the United States and defending individual rights guaranteed under the Constitution.

This Law Enforcement Officer Information Guide is designed to provide state and local law enforcement officers with an overview of their rights and protections under federal law when communicating information about an individual's citizenship or immigration status to federal authorities. It also highlights policies and initiatives that state and local law enforcement agencies should consider adopting to promote cooperation with federal officials.





INTRODUCTION

As a law enforcement officer, you should be aware that, under federal law:

- You have the right to share information about any person's citizenship or immigration status with federal immigration authorities, and no state or local government can stop you from doing so.
- Federal immigration law takes priority over any conflicting state or local laws or policies, including so-called "sanctuary" policies.
- It is a federal crime to obstruct federal immigration enforcement, and anyone who conspires to prevent federal officers from doing their jobs can face serious criminal penalties.
- It is a federal crime to conceal, harbor, or shield a person from detection by authorities if the person is unlawfully present in the United States.
- Officials who implement sanctuary policies may face both criminal prosecution and civil lawsuits under federal law.

LEGAL RIGHTS AND RESPONSIBILITIES

YOU HAVE THE RIGHT TO COMMUNICATE WITH FEDERAL IMMIGRATION AUTHORITIES

Federal law prohibits state and local government entities or officials from restricting the exchange of information with federal immigration authorities regarding an individual's citizenship or immigration status.



YOU HAVE THE RIGHT TO COMMUNICATE WITH FEDERAL IMMIGRATION AUTHORITIES

Specifically, the law provides:

“Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, [federal immigration officials] information regarding the citizenship or immigration status, lawful or unlawful, of any individual.”¹

The legal rule is clear: state and local officials have the right to communicate with federal immigration officials regarding any individual’s citizenship or immigration status. Any state or local policies to the contrary are unlawful.

¹ 8 U.S.C. § 1373(a)

YOU HAVE THE RIGHT TO COMMUNICATE WITH FEDERAL IMMIGRATION AUTHORITIES

EXAMPLE:

You arrest an individual and suspect he is not lawfully present in the United States. You have the right to contact ICE or the Law Enforcement Support Center to share that information, regardless of any local directive telling you not to.



FEDERAL LAW PREEMPTS CONFLICTING STATE AND LOCAL LAWS

The federal government “has broad, undoubted power over the subject of immigration and the status of aliens.”² Among other things, the U.S. Constitution empowers Congress to establish a “uniform Rule of Naturalization.”³



The federal government’s immigration power also derives from its “inherent power⁴ as sovereign to control and conduct relations with foreign nations.”

²Arizona v. United States, 567 U.S. 387, 394 (2012) (citation omitted).

³U.S. Const. art. I, § 8, cl. 4.

⁴Arizona, 567 U.S. at 395 (citation omitted).

FEDERAL LAW PREEMPTS CONFLICTING STATE AND LOCAL LAWS

Under the Immigration and Nationality Act (INA), Congress specifically permits state and local law enforcement officers to assist federal officials in enforcing immigration law.⁵

No federal law, however, allows state or local officials to subvert or ignore the requirements of the INA. In fact, federal law imposes significant criminal and civil penalties on those who do so.

⁵ See, e.g., 8 U.S.C. § 1324(c) (arrests for criminal violation of the INA's prohibitions against smuggling, transporting, or harboring aliens may be made not only by federal immigration officers, but also by "all other officers whose duty it is to enforce criminal laws"); id. § 1252c (authorizing state and local law enforcement to arrest unlawfully present aliens who have been previously removed and convicted of a felony); id. § 1103(a)(10) (empowering DHS to authorize state and local law enforcement officers, when an "actual or imminent mass influx of aliens ...presents urgent circumstances requiring an immediate Federal response," to perform functions of federal immigration officers); and id. § 1357(g) (allowing DHS to enter into written agreements with state or local governments to assist in "investigation, apprehension, or detention of aliens in the United States" and specifically allowing such cooperation even without written agreements).



FEDERAL LAW PREEMPTS CONFLICTING STATE AND LOCAL LAWS

Federal law specifically preempts state and local restrictions on local officials' communications with the U.S. Department of Homeland Security (DHS), stating that “[n]otwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, [DHS] information regarding the citizenship or immigration status, lawful or unlawful, of any individual.”⁶

The Supreme Court has confirmed that Congress may “withdraw specified powers from the States by enacting a statute containing an express preemption provision.”⁷ Congress did exactly that in 8 U.S.C. § 1373. Sanctuary policies that forbid state or local officials from communicating with DHS are therefore unlawful.⁸

⁶ 8 U.S.C. § 1373(a).

⁷ Arizona, 567 U.S. at 399.

⁸ See U.S. Const. art. VI, cl. 2.

FEDERAL LAW PREEMPTS CONFLICTING STATE AND LOCAL LAWS

EXAMPLE:

Your state legislature passes a law prohibiting law enforcement from contacting ICE about an arrested individual's immigration status. That state law is preempted by federal law and cannot be enforced against you. You retain the right to communicate with federal immigration authorities.





OBSTRUCTING FEDERAL IMMIGRATION ENFORCEMENT IS A FEDERAL CRIME

Federal law imposes serious consequences for obstructing the execution of federal immigration law. So-called “sanctuary” jurisdictions that forbid compliance with federal immigration law and cooperation with the officials who enforce it are breaking federal law.

It is a federal crime for two or more people to conspire to prevent a federal officer from performing his official duties through force, intimidation, or threat, or to harm the officer or his property.⁹ Violations are punishable by up to six years in prison, fines, or both.¹⁰

⁹ 18 U.S.C. § 372.

¹⁰ *Id.*

OBSTRUCTING FEDERAL IMMIGRATION ENFORCEMENT IS A FEDERAL CRIME

EXAMPLE:

A sheriff and two deputies agree to a plan to physically block a newly appointed U.S. Marshal from entering the federal courthouse in their county to take up his duties. The sheriff and deputies coordinate in advance, then show up armed and tell the Marshal that if he attempts to enter and exercise his authority, they will arrest him on fabricated charges and use force to remove him. The Marshal, fearing for his safety, is unable to carry out his federal duties that day. The sheriff and the deputies have violated federal law.



CONCEALING, HARBORING, OR SHIELDING ALIENS IS A FEDERAL CRIME

Aliens unlawfully present in the United States are subject to removal from the country. Federal law makes it a crime to conceal, harbor, or shield them from detection.¹¹ Specifically:

- Concealing, harboring, or shielding an alien known or suspected to be unlawfully present, or attempting to do so, is a federal crime.¹²
- Encouraging or inducing an alien to enter or reside in the United States in violation of law is a federal crime.¹³
- Aiding, abetting, or conspiring to commit any of the above violations is also a federal crime.¹⁴

The penalty for any of the above crimes is five years of imprisonment per alien involved.¹⁵

¹¹ 8 U.S.C. § 1324.

¹² 8 U.S.C. § 1324(a)(1)(A)(iii).

¹³ 8 U.S.C. § 1324(a)(1)(A)(iv).

¹⁴ 8 U.S.C. § 1324(a)(1)(A)(v).

¹⁵ 8 U.S.C. § 1324(a)(1)(B)(ii) (“for each alien in respect to whom such a violation occurs”).

CONCEALING, HARBORING, OR SHIELDING ALIENS IS A FEDERAL CRIME

EXAMPLE:

A local police chief learns through a routine records check that a person in his jurisdiction is an illegal alien with a pending ICE detainer. The chief then instructs officers not to honor the ICE detainer and to release the individual without notifying federal authorities; directs staff to affirmatively lie to ICE agents asking about the individual's whereabouts or release date; and warns the individual directly (or through intermediaries) that ICE agents are coming so they can flee. This conduct likely violates federal law.



SANCTUARY POLICIES MAY EXPOSE OFFICIALS TO CRIMINAL AND CIVIL LIABILITY

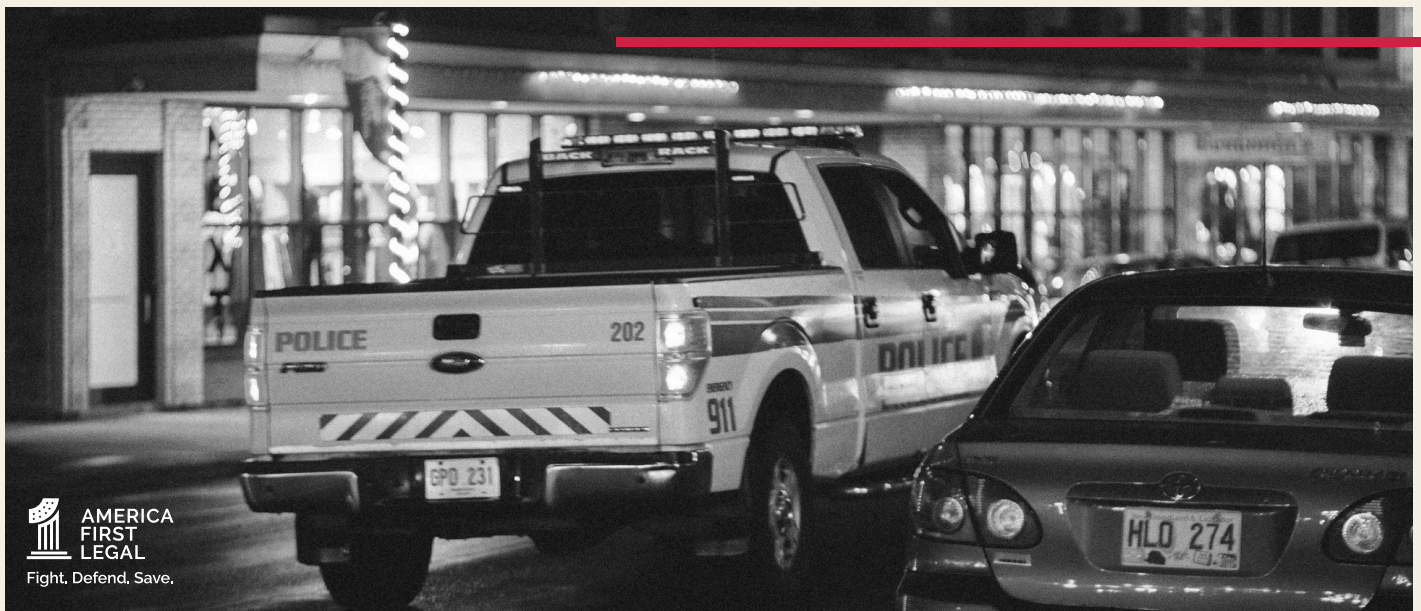
When a jurisdiction's sanctuary laws or policies require multiple officials to coordinate their activities, all involved could face criminal liability under multiple federal conspiracy statutes.

Key areas of exposure include:

- General federal conspiracy (18 U.S.C. § 371): Conspiring to commit any federal offense—including harboring aliens under 8 U.S.C. § 1324—carries up to five years of imprisonment for every employee involved in implementing sanctuary policies, even if they do not directly harbor an alien.¹⁶
- Conspiracy to impede a federal officer (18 U.S.C. § 372): Officials involved in implementing sanctuary policies that prevent federal immigration officers from carrying out their duties face up to six years of imprisonment.¹⁷

¹⁶ 18 U.S.C. § 371.

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SANCTUARY POLICIES MAY EXPOSE OFFICIALS TO CRIMINAL AND CIVIL LIABILITY

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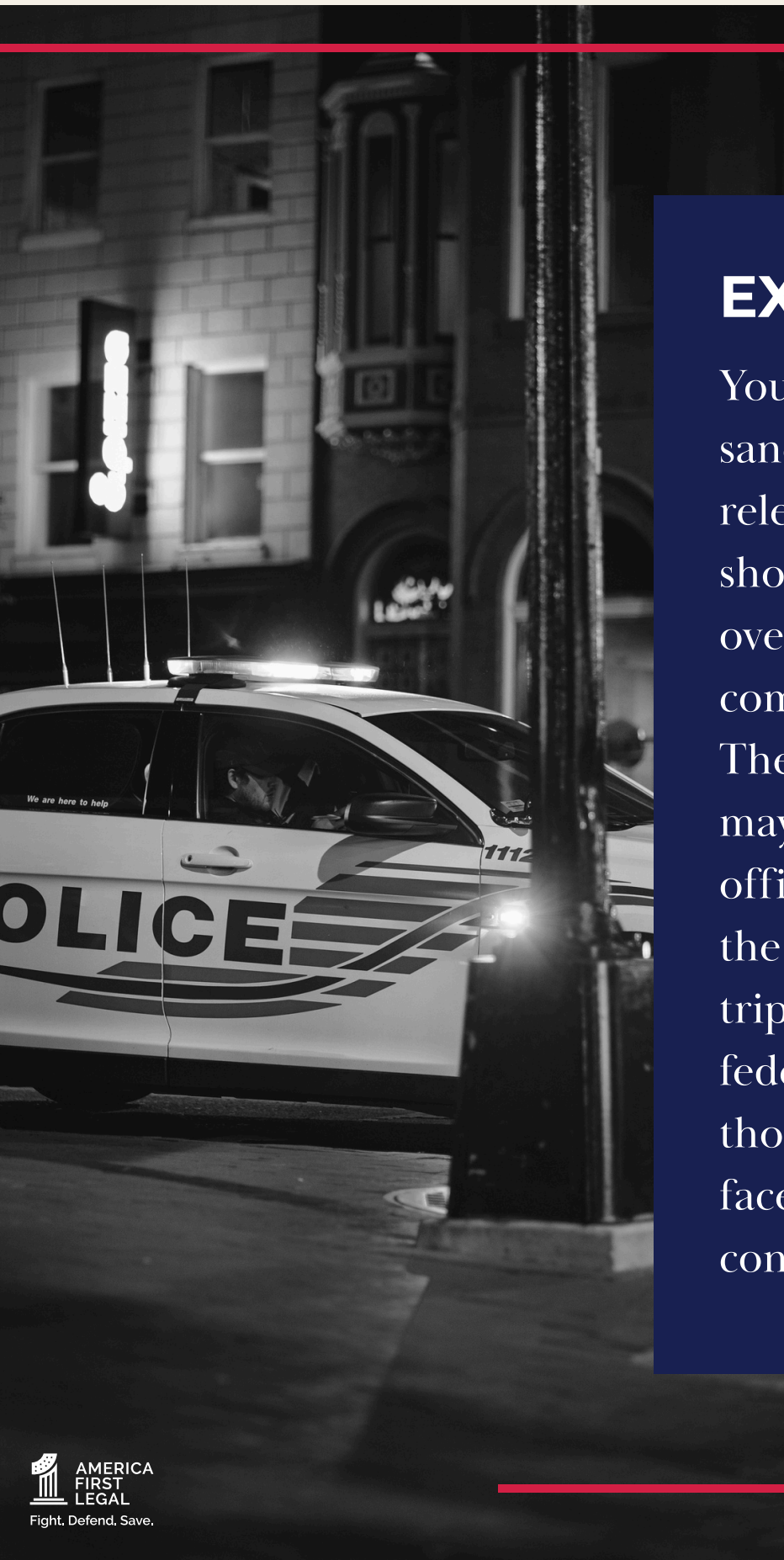
- Obstruction of proceedings (18 U.S.C. § 1512): Officials who engage in misleading conduct to help an alien avoid removal proceedings could face up to 20 years of imprisonment.¹⁸
- Civil RICO liability (18 U.S.C. § 1964(c)): Any individual harmed by a sanctuary jurisdiction's policies, such as a victim of crimes committed by a harbored alien, may sue involved officials for triple damages in their individual capacities.¹⁹



¹⁸ 18 U.S.C. § 1512.

¹⁹ *Genty v. Resol. Tr. Corp.*, 937 F.2d 899, 913 (3d Cir. 1991) (holding that plaintiffs could not sue municipality for triple damages under the RICO statute but that they could bring “a RICO action against the municipal officers themselves”); *Pelfresne v. Vill. of Rosemont*, 22 F. Supp. 2d 756, 761 (N.D. Ill. 1998) (individual municipal officials sued in their individual capacities were “proper RICO persons” who could be sued for triple damages).

SANCTUARY POLICIES MAY EXPOSE OFFICIALS TO CRIMINAL AND CIVIL LIABILITY



EXAMPLE:

Your jurisdiction enacts a sanctuary policy, and a released individual who should have been turned over to ICE goes on to commit a violent crime. The victim of that crime may be able to sue the officials who implemented the sanctuary policy for triple damages under federal civil RICO law, and those officials could also face federal criminal conspiracy charges.

MODEL POLICIES

State and local law enforcement officers who are interested in initiating or improving cooperation with federal immigration officials are encouraged to consider adopting the following policies.

PARTICIPATE IN ICE'S 287(G) PROGRAM



State and local law enforcement entities can support federal immigration authorities by participating in U.S. Immigration and Customs Enforcement's (ICE) 287(g) Program.²⁰

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 added Section 287(g) to the INA, 8 U.S.C. § 1357(g), authorizing ICE to delegate to state and local law enforcement officers the authority to perform specified immigration officer functions under ICE's direction and oversight. Likewise, 25 U.S.C. § 2804(e) allows federal agencies to enter into agreements with Indian tribes to carry out laws of the United States, such as immigration laws.

²⁰ University law enforcement entities with appropriate police power may also enter into 287(g) agreements.



PARTICIPATE IN ICE'S 287(G) PROGRAM

The 287(g) Program enhances the safety and security of our Nation's communities by allowing ICE Enforcement and Removal Operations to partner with state, local, and tribal law enforcement agencies to identify and remove criminal aliens who are amenable to removal from the United States.

The 287(g) Program also benefits state and local law enforcement agencies in several ways. Most notably, it helps local officials keep their communities safe from potentially dangerous criminal aliens. Law enforcement officers receive access to ICE resources and training, and ICE covers the cost.



PARTICIPATE IN ICE'S 287(G) PROGRAM

On January 20, 2025, President Trump issued Executive Order 14159, requiring ICE to authorize qualified state and local law enforcement officials to operate under Section 287(g) to the maximum extent permitted by law.²¹

Several states have passed or are considering legislation mandating law enforcement agencies seek out or enter into memoranda of agreement (MOA) with ICE pursuant to a partnership under the 287(g) Program.

Law enforcement agencies interested in participating in the 287(g) Program must sign an MOA with ICE. Law enforcement agencies will then nominate officers to participate in the 287(g) Program. Nominees must be U.S. citizens, complete and pass a background investigation, and have knowledge of and have enforced laws and regulations related to law enforcement activities in their jurisdictions.

²¹ Exec. Order No. 14159, 90 Fed. Reg. 8443 (Jan. 29, 2025) (“Protecting the American People Against Invasion”).

PARTICIPATE IN ICE'S 287(G) PROGRAM



Task Force Model nominees must also have at least two years of total law enforcement officer experience.

Law enforcement agencies interested in becoming a law enforcement partner under the 287(g) Program must submit a signed MOA to ICE at ERO287g@ice.dhs.gov.

These forms can be found at www.ice.gov/identify-and-arrest/287g.

REPORT STATUS OF ARRESTED INDIVIDUALS



Even without a 287(g) agreement, law enforcement agencies have the legal authority to, and should, contact DHS about the immigration status of arrested individuals, as expressly permitted by 8 U.S.C. §§ 1373 and 1644.

One of the ways DHS ensures compliance with federal law is through the ICE Law Enforcement Support Center (LESC). The LESC is available 24 hours a day, 7 days a week, 365 days a year, providing real-time immigration status assistance to federal, state, tribal, and local agencies. The Supreme Court has confirmed that “Congress has obligated ICE to respond to any request made by state officials for verification of a person’s citizenship or immigration status.” *Arizona v. United States*, 567 U.S. 387, 412 (2012) (emphasis added).

REPORT STATUS OF ARRESTED INDIVIDUALS



Law enforcement officers can call the LESC directly at (802) 872-6020. The LESC uses the Alien Criminal Response Information Management System (ACRIME) to respond to Immigration Alien Queries (IAQs).²² The system can look up immigration status using only a person's name and date of birth; no alien number is required.

²² Privacy Impact Assessment for Alien Criminal Response Information Management System (ACRIME) (hereinafter "ACRIME PIA"), U.S. Dep't of Homeland Security at 1, (Apr. 22, 2010), <https://perma.cc/GVF7-2N6L>



HONOR IMMIGRATION DETAINERS

State and local law enforcement entities can support federal immigration authorities by adopting policies to honor immigration detainers issued by ICE.²³

An immigration detainer is a request from ICE asking a federal, state, or local law enforcement agency—including jails, prisons, or other detention facilities—to notify ICE as early as possible prior to the release of a removable alien and to maintain custody of the individual for up to 48 hours beyond their scheduled release. This additional time allows DHS to assume custody in accordance with federal law.

ICE has general statutory authority to detain aliens who are subject to removal or removal proceedings, which forms the legal basis for issuing immigration detainers.²⁴ When honored, detainers help prevent gaps in custody, reduce the need for at-large enforcement actions, and facilitate efficient coordination between jurisdictions.

²³ Readers should consult legal counsel regarding the applicability of this guidance in their jurisdiction. State or local laws, regulations, policies, or other legal authorities may restrict or prohibit certain actions by public personnel acting on immigration detainers in particular circumstances. Accordingly, nothing in this guidance should be interpreted as a blanket assurance that such actions are lawful in every jurisdiction.

²⁴ 8 U.S.C. § 1226(c).

RECORD INFORMATION ABOUT IMMIGRATION STATUS

As part of the arrest or intake process, officers who have concerns about an individual's immigration status should contact the LESC to verify citizenship and immigration status, and then record that information in the detainee's file in a form that can be shared with ICE.

Agencies should require officers to document any LESC inquiry, including the response received, on a separate form maintained within the individual's file and accessible for sharing with federal authorities.





ADOPT INFORMATION-SHARING POLICIES

State and local law enforcement entities can support federal immigration authorities by adopting information-sharing policies consistent with federal law. Federal statutes *prohibit* state and local governments from restricting officials from communicating with DHS regarding an individual's citizenship or immigration status.²⁵

Such information-sharing may include, but is not limited to, inquiries, notifications, or confirmations related to immigration status, custody status, or release information, as permitted by law. Information-sharing policies should be designed to work in conjunction with the record-keeping policies described above.

²⁵ 8 U.S.C. § 1373.

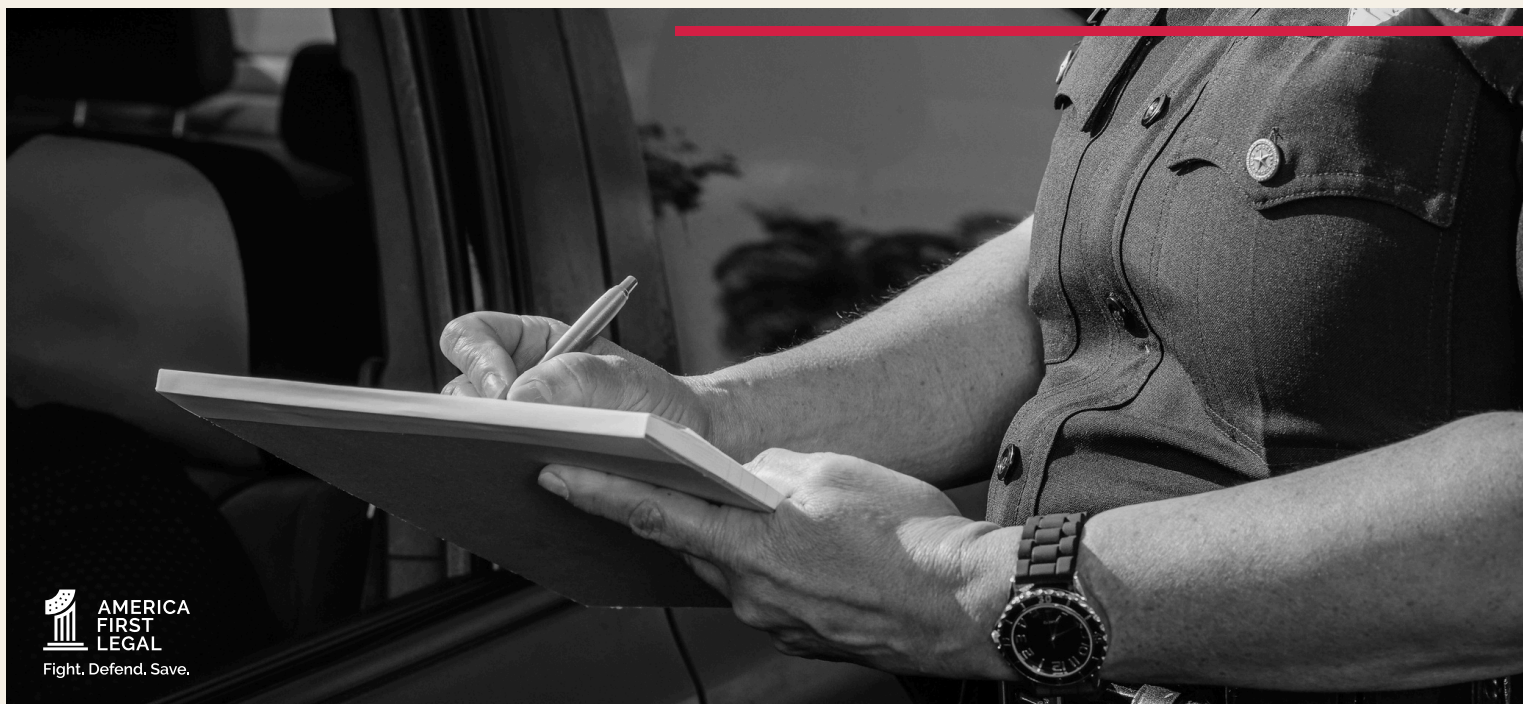
PROMOTE VOLUNTARY DEPARTURE

State and local law enforcement officials can support federal immigration enforcement efforts by informing the public—including unlawfully present individuals who are detained or arrested—about voluntary departure options.

The Department of Homeland Security offers eligible aliens the opportunity to depart the United States voluntarily through the CBP Home mobile app. Program participants may receive:

- Cost-free travel assistance;
- Forgiveness of certain failure-to-depart fines; and
- A \$2,600 departure incentive to facilitate return to home country or another country where the participant holds lawful status.²⁶

²⁶See Press Release, Department of Homeland Security, Celebrating One Year of Trump: DHS Now Offering \$2,600 Stipend Via the CBP Home App for Illegal Aliens to Leave Now (Jan. 21, 2026), <https://perma.cc/2FT2-2Y4W>.



PROMOTE VOLUNTARY DEPARTURE

Once non-criminal individuals submit their intent to depart through the app and complete vetting, ICE will temporarily deprioritize them for detention or enforcement action prior to their scheduled departure. Eligible participants may return home without arrest, detention, or restraints.

The CBP Home mobile app is free and available to anyone with access to a mobile device. It can be downloaded from the Apple App Store and Google Play.

For more information, visit www.dhs.gov/cbphome.

GET LEGAL HELP

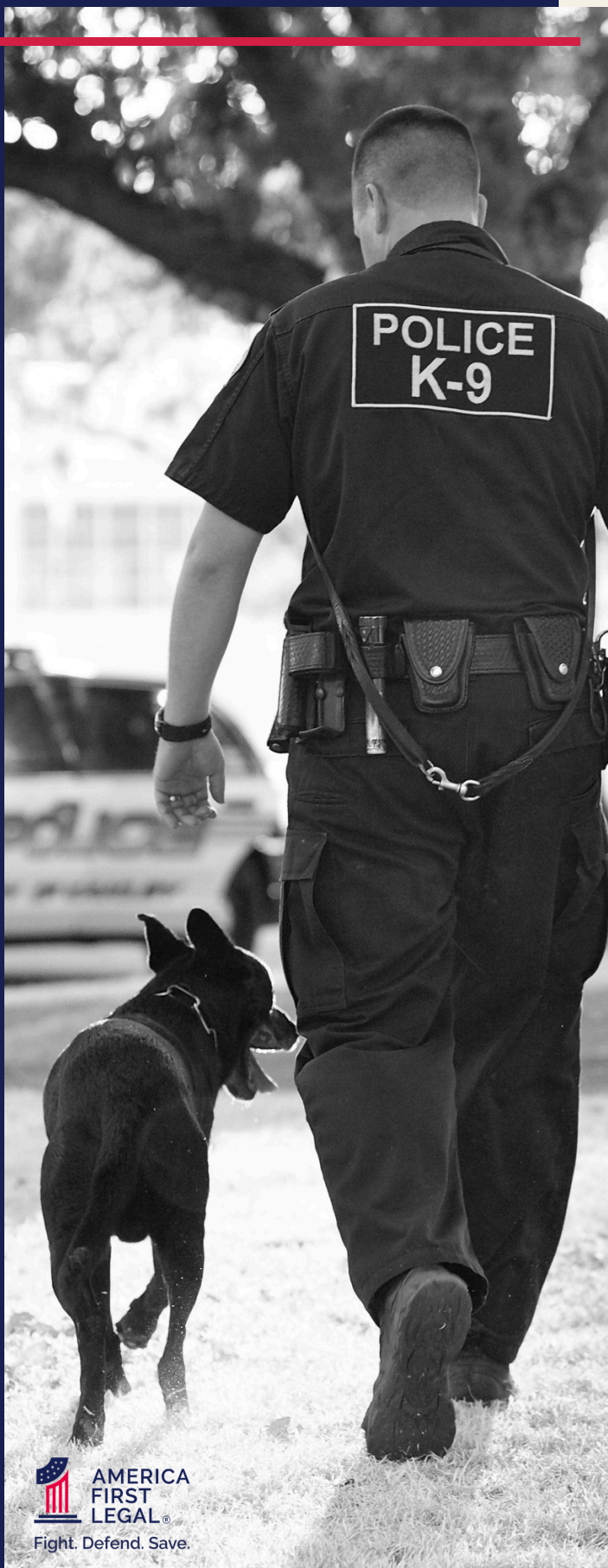
PRO BONO LEGAL CONSULTATIONS

America First Legal (AFL)

If you are a law enforcement officer or other public employee and believe your rights, or those of your agency or department, have been violated or that your employer is acting unlawfully, you may contact AFL for a free and confidential consultation.



PRO BONO LEGAL CONSULTATIONS



AFL is willing to represent local governments, as well as state and local law enforcement entities and officials who face threats, adverse action, or litigation arising from engaging in lawful communication or cooperation with federal authorities.

Contact AFL at:

www.aflegal.org/contact-us.

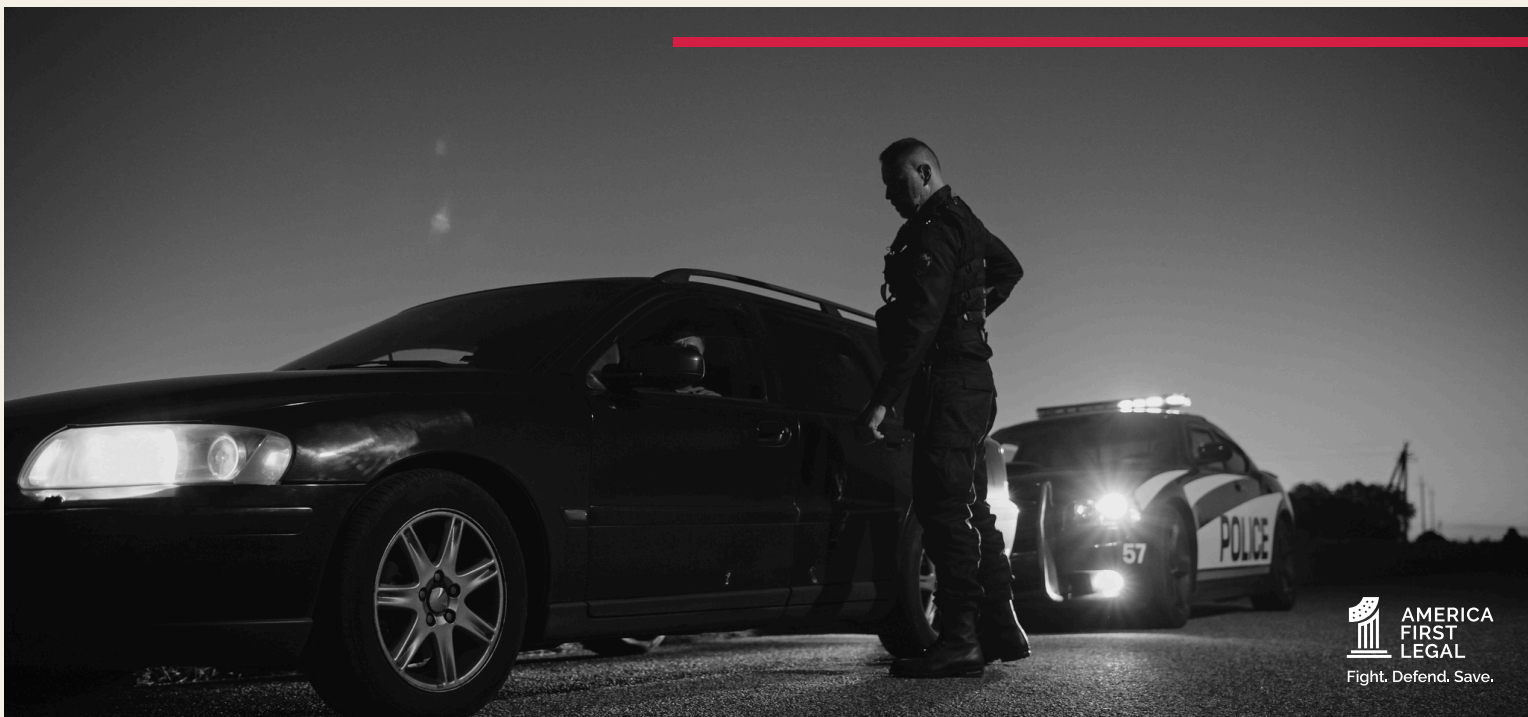


FEDERAL RESOURCES FOR LAW ENFORCEMENT

ICE Law Enforcement Support Center (LESC)

The LESC is a single, national point of contact for law enforcement agencies across all levels of government. Available 24/7/365, the LESC provides real-time assistance to federal, state, tribal, and local agencies regarding individuals suspected of, arrested for, or convicted of criminal activity.

Call the LESC at (802) 872-6020. Learn more at www.ice.gov/lesc.



FEDERAL RESOURCES FOR LAW ENFORCEMENT

ICE Law Enforcement Assistance Center (LEAC)

The LEAC is an online resource hub offering guidance and information specifically tailored for federal, state, and local law enforcement agencies.

Access resources at www.ice.gov/leac.