



July 11, 2023

Ms. Shoba Sivaprasad Wadhia
Officer
Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
2707 Martin Luther King, Jr. Avenue, SE
Washington, DC 20528-0190
CRCLCompliance@hq.dhs.gov

Via Email

Re: ICE's 287(g) Agreement with the Fredrick County Sheriff's Office

Dear Ms. Wadhia:

On behalf of the American Civil Liberties Union (ACLU) and the ACLU of Maryland, we write to submit this complaint to the DHS Office for Civil Rights and Civil Liberties (CRCL) regarding Immigration and Customs Enforcement's (ICE) 287(g) agreement with the Fredrick County Sheriff's Office and Sheriff Charles Austin "Chuck" Jenkins.

We outline below four areas for CRCL to investigate:

- 1) The sheriff's misconduct, including his federal indictment on charges of conspiracy and making false statements, his misuse of office to stoke anti-immigrant racism and his expressed belief in the supreme authority of sheriffs over state and federal governments;**
- 2) racial disparities in local policing, reports of racial profiling and other civil rights violations;**
- 3) inhumane conditions at the county jail; and**
- 4) limited transparency and accountability to the public by the Sheriff's Office.**

Congress has instructed CRCL to "provide rigorous oversight of the 287(g) program."¹ Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL reviews and assesses information concerning abuses of civil rights and civil liberties, and profiling on the basis of race, ethnicity or

¹ H. Comm. Print 47-047/47-048 Legislative Text and Explanatory Statement Book 1 (Div A-F), <https://www.govinfo.gov/content/pkg/CPRT-117HPRT47047/pdf/CPRT-117HPRT47047.pdf>.

religion, by DHS and officials, or through DHS programs and activities. CRCL's Anti-Discrimination Group is responsible for monitoring civil rights compliance of DHS grantees. CRCL may investigate a complaint related to the 287(g) program and "use its findings to make recommendations for improving policy, implementation, training or oversight aimed at reducing the risk of civil rights or civil liberties violations in the future."²

I. Sheriff Jenkins' Misconduct and Misuse of Office

Jenkins was elected sheriff in 2006³ and joined the 287(g) program in 2008 under the Jail Enforcement and now-defunct Task Force models. In 2020, he renewed the office's 287(g) Jail Enforcement agreement with ICE indefinitely.⁴ He is currently on a leave of absence from the Sheriff's Office. However, he appears to still be conducting official business as sheriff, including fielding questions at the June 2023 steering committee meeting regarding the 287(g) program. He is also reportedly taking part in administrative work and attending executive-level meetings and events.⁵ (The ACLU of Maryland sent a public records request on June 23, 2023 to fully understand the extent of official duties that Jenkins is maintaining despite his leave of absence).

For the reasons set forth below, it is inappropriate for ICE to continue delegating federal immigration enforcement authority to Sheriff Jenkins through a 287(g) agreement.

A. Federal Indictment on Conspiracy and False Statements

In April 2023, a federal grand jury indicted Jenkins on charges of making false statements and conspiracy to defraud the Bureau of Alcohol, Tobacco, Firearms and Explosives. The indictment alleges that Jenkins signed letters on Sheriff's Office letterhead, helping a local gun owner to evade federal regulation of machine guns. Specifically, Jenkins' letters said the guns would be used for demonstration purposes for the Sheriff's Office, but the demonstrations never occurred; instead, the gun shop owner rented the machine guns to customers for a profit. In

² Government Accountability Office, *Immigration Enforcement: ICE Can Further Enhance Its Planning and Oversight of State and Local Agreements*, January 2021, <https://www.gao.gov/assets/gao-21-186.pdf>.

³ "Office of the Sheriff," Frederick County Sheriff's Office, <https://www.frederickcosheriff.com/office-of-the-sheriff>. Immigration and Customs Enforcement, *The ICE 287(g) Program: A Law Enforcement Partnership* (January 21, 2010), <https://www.hsd1.org/?view&did=29593>.

⁴ Memorandum of Agreement Between Immigration and Customs Enforcement and Frederick County Sheriff's Office, "287(g) Jail Enforcement Model," June 9, 2020, https://www.ice.gov/doclib/287gMOA/287gJEM_FrederickCoMD2020-06-09.pdf.

⁵ Shifra Dayak and Clara Niel, "Sheriff continuing some functions of position while on administrative leave," *Frederick News-Post*, (June 23, 2023) https://www.fredericknewspost.com/news/politics_and_government/levels_of_government/county/executive/sheriff-continuing-some-functions-of-position-while-on-administrative-leave/article_f94de095-1b82-52df-9d7c-89ade7aa205c.html#:~:text=Frederick%20County%20Sheriff%20Chuck%20Jenkins%20said%20he%20is%20still%20taking,during%20his%20paid%20administrative%20leave.

exchange, the gun shop owner offered Jenkins political support. Jenkins, who was re-elected sheriff in 2022, has pled not guilty.⁶

If true, these allegations show that Jenkins used the power of his office to thwart enforcement of federal laws aimed at ensuring public safety—making it completely inappropriate to delegate responsibility for enforcing federal law to him.

B. Stoking Anti-Immigrant Hate

Jenkins has repeatedly used his position as sheriff to stoke anti-immigrant racism, appearing on cable news and in public in his sheriff's uniform to deploy racist dog whistles. He claims that people seeking refuge in the United States are part of an "invasion" that cannot be allowed to continue⁷; he calls immigrants "illegals"⁸; he calls DACA recipients "criminals"⁹ and in multiple interviews has called DACA recipients "savage," "terrorists" and he promoted "round[ing] these people up and maybe placing them at Guantanamo until we can deport 'em"¹⁰; he told a Take America Back rally, "if they're not in this country legally, you have to go."¹¹ In 2016, the sheriff testified before Congress to condemn policies like DACA, which he claimed

⁶ United States v. Jenkins, 1:23-cr-00123, (D. Maryland Apr 05, 2023) ECF No. 1 <https://www.courtlistener.com/docket/67142438/1/united-states-v-jenkins/>

⁷ "Jenkins: Without More Support at the Border, No County Safe," *Frederick News-Post*, August 21, 2014, https://www.fredericknewspost.com/news/crime_and_justice/jenkins-without-more-support-at-the-border-no-countysafe/article_d94b03c2-ad5a-5bbd-941f-ae04fa792154.html.

⁸ Kate Masters, "Frederick Uncut: Sheriff Chuck Jenkins Talks Local Immigration Enforcement and Sanctuary Cities," *The Frederick News-Post*, March 14, 2017, https://www.fredericknewspost.com/news/frederick-uncut-sheriffchuck-jenkins-talks-local-immigration-enforcement-and-sanctuary-cities/article_3f7754f2-e745-5f77-a58c8881a09b220c.html.

⁹ Hearing Before the Subcommittee on Immigration and Border Security of the Committee on the Judiciary, 114th Cong. (April 19, 2016), "The Real Victims of a Reckless and Lawless Immigration Policy: Families and Survivors Speak Out on the Real Cost of this Administration's Policies," <https://www.govinfo.gov/content/pkg/CHRG114hhrg99838/html/CHRG-114hhrg99838.htm>.

¹⁰ *Medrano v. Jenkins*, 1:19-cv-02038-RDB (D. Md., July 11, 2019), https://www.aclu-md.org/sites/default/files/1_medrano_v_jenkins_compl.pdf; The Daily Ledger, *Frederick County Sheriff, Chuck Jenkins, on MS-13*, YouTube (Nov. 29, 2017) (video no longer available; on file with ACLU of Maryland).

¹¹ 930WFMD, "Take America Back—Sheriff Chuck Jenkins—Part 2," YouTube, July 7, 2009, <https://www.youtube.com/watch?v=RV6Az-Z6j-c>.

abetted “criminal aliens.”¹² Jenkins appeared on Fox News in 2021 to warn that there would be “total lawlessness” should President Biden’s immigration policies go into effect.¹³

In a YouTube video uploaded on April 13, 2023, he appeared in uniform and with a sheriff’s office backdrop as a guest on a show hosted by “The Remembrance Project”¹⁴ promoting his participation in the 287(g) program before turning to an extended diatribe stoking fear of immigrants and mischaracterizing immigration policy. He stated:

Our borders are wide open probably to the tune of a half a million illegals a month coming through. We can’t sustain this. America is not prepared to support this influx of population and when you talk about public safety, national security, I’m telling you American law enforcement and the criminal justice system is not prepared for what is coming our way...we have no borders, we have no rule of law anymore...¹⁵

He cited conversations with ICE officials in support of his view that “Maryland is not only a sanctuary state, it’s a magnet state,” for “everybody coming across that border.”¹⁶

He went further, espousing an apparent conspiracy theory that people coming to the southern border are being sent as “chemical warfare”:

I believe this is by design, okay? I believe this is chemical warfare against the United States. I believe, listen, the entire world hates this country, everybody around the world hates America, what we stand for, what we’re all about, the fabric of our society. And I’m a believer that the powers that be in Mexico, through the cartels and the criminal gangs, are doing everything they can to basically kill Americans through illegal drugs. Okay, the violence you’re getting, so think about this: The populations that are coming into the United States through the southern border are from the most violent countries on the face of the Earth...we can’t tolerate this. What’s it going to take to stop it? It’s really obvious to me this administration doesn’t care, they don’t have a clue as to how bad it is, this administration has been absolute failure...¹⁷

¹² Hearing Before the Subcommittee on Immigration and Border Security of the Committee on the Judiciary, 114th Cong. (April 19, 2016), “The Real Victims of a Reckless and Lawless Immigration Policy: Families and Survivors.”

¹³ “From the February 8, 2021, Edition of Fox & Friends,” Media Matters for America, February 8, 2021, <https://www.mediamatters.org/media/3929521>.

¹⁴ See Southern Poverty Law Center, “The Remembrance Project,” <https://www.splcenter.org/fighting-hate/extremist-files/group/remembrance-project>.

¹⁵ The Remembrance Project, “Sheriff Chuck Jenkins, Fredrick County, MD,” YouTube, April 13, 2023, <https://www.youtube.com/watch?v=mIZTjnk4bd4>.

¹⁶ *Id.*

¹⁷ *Id.*

In the same interview, he touted having created a “virtual fence” around Fredrick County, whereas neighboring counties were “overwhelmed by illegals, a lot of criminals.”¹⁸

The Biden administration should not delegate federal immigration authorities to individuals who are using their megaphones as public figures to stoke fear and hatred toward immigrants, in many cases using misleading or patently false claims. Moreover, the sheriff’s anti-immigrant rhetoric raises concerns over whether he may be encouraging or at least tolerating racial profiling among staff.

II. Sheriff’s Supremacy

Sheriff Jenkin’s statements and actions regarding sheriff supremacy raise concerns regarding his compliance with the terms of the 287(g) program. In particular, the memoranda of agreement governing the Sheriff’s Office’s participation in the program lays out limits on the delegation of federal immigration enforcement authority—limits with which he may disagree. He may flout the limiting terms of the 287(g) memoranda, if he sees them as unjust. He may also fail to ensure staff compliance with those terms, including with regard to federal civil rights law and racial profiling guidelines.

Sheriff Jenkins has described himself as a member of the Constitutional Sheriffs and Peace Officers Association (CSPOA), which promotes the unsound, fringe legal theory that local sheriffs have ultimate authority over state and federal governments, and that sheriffs are the supreme arbiters of the law.¹⁹ In response to a 2022 Marshall Project survey, Jenkins said he agreed with the statements, “[t]he sheriff’s authority supersedes the federal or state government in my county” and “I am willing to ‘interpose’ on behalf of county residents when I believe a state or federal law is unjust.”²⁰

While some self-described “constitutional” sheriffs disclaim the prospect of using violence to exert their authority, Jenkins suggested that it remains possible his office will deploy violence against the federal government: “Is it going to come down to my men facing off with a federal

¹⁸ *Id.*

¹⁹ “Federation for American Immigration Reform,” Southern Poverty Law Center, <https://www.splcenter.org/fighting-hate/extremist-files/group/federation-american-immigration-reforms>; Anti-Defamation League Center on Extremism, *The Constitutional Sheriffs and Peace Officers Association (CSPOA) and Richard Mack: How Extremists Are Successfully Infiltrating Law Enforcement* (September 2021), <https://www.adl.org/media/16889/download>; Ashley Powers, “The Renegade Sheriffs,” *The New Yorker*, April 30, 2018, <https://www.newyorker.com/magazine/2018/04/30/the-renegade-sheriffs>.

²⁰ Marshall Project Survey, Responses of Chuck Jenkins, Fredrick County Sheriff, “Default Report, American County Sheriff 2021,” March 23, 2022 (on file with ACLU of Maryland).

agency at gunpoint?” asked Sheriff Jenkins, “I hope not.”²¹ In the context of gun safety, Jenkins has reportedly refused to recognize and support enforcement of federal law.²²

In his appearance on “The Remembrance Project” show, after an extensive discussion of the border and immigration, Jenkins said: “Why isn’t every sheriff standing up with you, beside you to give a message to the public and this administration that we’re not going to stand for this anymore, this is not Joe Biden’s country, this is our America. He doesn’t like it, he can go, he can leave.” The show’s host concluded the program by describing 287(g) as a “solution” and encouraging viewers to contact their sheriff and “let them know they have vast authority, they have more authority in their county than the governor in their state and the president of the United States.”²³

In April 2021, Jenkins was among 275 sheriffs signing a letter addressed to President Biden titled “Help America’s Sheriffs Keep Our Neighborhoods and Communities Safe by Halting Illegal Immigration” that spreads misinformation about Biden administration policies and stokes fear about the alleged threats posed by immigrants.²⁴ Addressing President Biden, the sheriffs signing the letter warn of the “criminal illegal alien violence caused by the reckless and irresponsible policies of your administration.” Until the administration’s immigration policies “move in the right direction,” the letter warns, these sheriffs “will continue to uphold our oaths, enforce our sovereign authorities, fight for public safety, and keep our promises to the American people who have placed their trust in us.”²⁵ Taken together, this language amounts to a warning that the signatory sheriffs will defy the Biden administration’s immigration policies (both perceived and actual) in favor of undefined “sovereign authorities.”

State and local officials are free to disagree with an administration’s policies and express support for different ones. However, the rhetoric we have described goes beyond a mere disagreement over policies. It suggests that Jenkins is willing to use the authority delegated to him

²¹ Maurice Chammah, *Does Your Sheriff Think He’s More Powerful Than the President?*, MARSHALL PROJECT, (Oct. 18, 2022) https://www.themarshallproject.org/2022/10/18/does-your-sheriff-think-he-s-more-powerful-than-the-president?fbclid=IwAR1fDVzEfyGBFckscyIhb3UchUkjTt4eKu_W7SRmacrmacumYFJBRckjyVg.

²² See Southern Poverty Law Center, “Recently Indicted Maryland Sheriff Has Links to Constitutional Sheriff, Anti-Muslim and Anti-Immigrant Movements,” April 7, 2023, <https://www.splcenter.org/hatewatch/2023/04/07/recently-indicted-maryland-sheriff-has-links-constitutional-sheriff-anti-muslim-and-anti>.

²³ See The Remembrance Project, “Sheriff Chuck Jenkins, Fredrick County, MD,” YouTube, April 13, 2023, <https://www.youtube.com/watch?v=mIZTjnk4bd4>.

²⁴ Nikolas Lanum, “275 Sheriffs Sign Letter to Biden on Border Crisis: ‘Reckless Effort’ to Put Politics Before Safety,” Fox News, April 8, 2021, <https://www.foxnews.com/politics/275-sheriffs-sign-letter-biden-border-crisis-immigration>.

²⁵ *Id.*

through the 287(g) program to flout Biden administration immigration policies and federal guidelines with which he has expressed profound disagreement.

III. Racial Disparities in Policing and Civil Rights Violations

The Sheriff's Office has engaged in traffic stops involving Black drivers in the county at disproportionate rates, according to data reported to the state. In addition, local organizations have documented patterns of racial profiling against Latino drivers.

A. Data Shows Racially Disparate Policing of Black People in Fredrick County

According to the US Census Bureau, Black people account for 10.2 percent of the population of Fredrick County.²⁶ Yet the most recent government data on the Sheriff's Office practices show that Black people were subjected to Sheriff's Office enforcement actions at higher rates—sometimes double, even quadruple—on several scores. For example:

- 19.9 percent of the Sheriff's Office traffic stops involved Black drivers from 2020 to 2021—a rate almost double their population during the same period. The most prevalent stated reason for these stops was “equipment.”²⁷
- In 2020, 41 percent of the Sheriff's Office's “field interviews” were of Black people. While that number dropped to 26 percent in 2021, it is still markedly disproportionate.²⁸
- In 2021, 42 percent of juvenile criminal arrests were of Black people, an increase of double from the prior year.²⁹
- In 2021, 61 percent of narcotics unit search warrants involved Black people, an increase from 37 percent the prior year.³⁰

²⁶ United States Census Bureau, Decennial Census, 2020, https://data.census.gov/table?g=040XX00US24_050XX00US24021&d=DEC+Demographic+Profile&tid=DECENNIALDP2020.DP1.

²⁷ See Governor's Office of Crime Prevention, Youth and Victim Services, “Race-Based Traffic Stop Data Dashboard,” <https://goccp.maryland.gov/data-dashboards/traffic-stop-data-dashboard/> (data on Fredrick County from 2016 to 2021).

²⁸ Memo from Lt. Gregg Warner, Office of Policy and Compliance to Sheriff Charles A. Jenkins, “2021 Annual Administrative Review/Bias Based Profiling,” June 17, 2022 (on file with the ACLU of Maryland).

²⁹ *Id.*

³⁰ *Id.*

B. Racial Profiling of Latinos

Local organizations have also documented patterns of racial profiling by the Sheriff's Office, particularly unlawfully detaining people under the pretense of traffic offenses and other minor offenses, as part of a practice of harassing immigrant community members.³¹

For example, Sara Medrano, a Latina Frederick resident, was stopped by a Frederick County deputy for a "broken" taillight that turned out to be working properly. The deputy asked about Ms. Medrano's legal status before detaining and illegally holding her in an attempt to get ICE to come pick her up. The ACLU of Maryland sued and reached a 2021 settlement agreement with Jenkins requiring him, among other things, to apologize to Ms. Medrano and to publicly report incidents that involve racial or immigration profiling.³² In another example, a Latino man and U.S. citizen described being "regularly pulled over based upon false and suspicious allegations of broken taillights and other minor traffic violations," getting questioned by deputies about his immigration status on multiple occasions and, most recently, asked why he "speaks such good English."³³

In a 2008 case, Roxana Orellana Santos, another Latina woman, was sitting outside her workplace taking a lunch break when two deputies detained her without reasonable suspicion or probable cause. The deputies were not trained or authorized to perform immigration functions under the 287(g) program. Nevertheless, they arrested Ms. Santos, placing her in handcuffs without charging her with any violation, and illegally held her in jail. Federal district and appellate courts found the deputies' behavior unconstitutional.³⁴

The ACLU of Maryland has also worked with Bayron Cardona, who has shared the impact of 287(g) on the local community with federal officials. He was first arrested in 2009 by the Sheriff's Office as a passenger of a car stopped for expired plates. At the county jail, he was processed through the 287(g) program and was detained for nearly two months. In 2013 he was stopped for a broken taillight and when he showed his Honduran passport, one officer said to the other officer that "ICE will want to speak with him" and was brought to the detention center. As

³¹ *Medrano v. Jenkins*, 1:19-cv-02038-RDB (D. Md., July 11, 2019), https://www.aclu-md.org/sites/default/files/1_medrano_v_jenkins_compl.pdf.

³² Nick Steiner, "Opinion: Maryland Police Must Stop Playing ICE," *Washington Post*, February 5, 2021, www.washingtonpost.com/opinions/local-opinions/maryland-police-must-stop-playing-ice/2021/02/04/5b0f8646-5ff411eb-9430-e7c77b5b0297_story.html.

³³ *Medrano v. Jenkins*, 1:19-cv-02038-RDB (D. Md., July 11, 2019), https://www.aclu-md.org/sites/default/files/1_medrano_v_jenkins_compl.pdf.

³⁴ *Santos v. Frederick County Board of Commissioners*, 725 F.3d 451 (4th Cir. 2013); *Santos v. Frederick County Board of Commissioners*, 346 F. Supp. 3d 785, 792-93 (D. Md., Sept. 27, 2018); *Medrano v. Jenkins*, 1:19-cv-02038RDB (D. Md., July 11, 2019), https://www.aclu-md.org/sites/default/files/1_medrano_v_jenkins_compl.pdf.

a result, he was deported to Honduras where he lived for three years. He started a business with his wife, until he was threatened by MS-13, causing him to flee and seek protection in the United States, which finally granted him asylum. The 287(g) program and the Sheriff's Office's conduct upended his life and compromised his safety.

A 2017 study of Frederick County's 287(g) program found that since the program began in 2008, it has led to increased arrests of Latino individuals—"11 to 13 more [Latino individuals] per month than would be expected without the program." The data indicates that the Sheriff's Office has focused more on the Latinx community since the 287(g) program began.³⁵

Other Civil Rights Violations

At least four people have died as a result of encounters with the Sheriff's Office since 2013, including a 26-year-old man with Down syndrome who died after three off-duty deputies attempted to forcibly remove him from his seat at a movie theater when he attempted to remain for a second screening of a movie.³⁶ The death was ruled a homicide as a result of asphyxia and the family reached a \$1.9 million settlement with multiple parties; yet an internal affairs investigations within the Sheriff's Office purported to clear but the deputies of wrongdoing.³⁷

In 2019, Abraham Arellano, a Latino man, was shot and killed by deputies who were responding to a 911 call about an armed and potentially suicidal person entering a house. It was later discovered that Arellano was the person who had placed the call and the house was empty.³⁸ Arellano's fiancé wept as she wondered why the deputy shot Arellano: "I felt like they could have done something else. Or the police could have handled it differently."³⁹ The ACLU described this

³⁵ Michael Coon, "Local Immigration Enforcement and Arrests of the Hispanic Population," *Journal on Migration and Human Security* 5, no. 3 (August 8, 2018): 645–665, <https://doi.org/10.1177/233150241700500305>.

³⁶ "Frederick County Sheriff's Department," Police Scorecard, <https://policescorecard.org/md/sheriff/frederickcounty>.

³⁷ Theresa Vargas, "Settlement Reached in Police-custody Death of Man with Down Syndrome," *Washington Post*, April 24, 2018, www.washingtonpost.com/local/settlement-reached-in-police-custody-death-of-man-with-downsyndrome/2018/04/24/7d53c0ca-47fe-11e8-827e-190efaf1flee_story.html/.

³⁸ "ACLU: Hyattsville Police Shooting Part of Troubling Pattern," *Route 1 Reporter*, October 6, 2019, <https://route1reporter.com/2019/10/06/aclu-hyattsville-police-shooting-part-of-troubling-pattern/>.

³⁹ Scott Broom, "Anatomy of a Family Tragedy: Fiancé Mystified by Apparent 'Suicide by Cop' in Thurmont," WUSA9, March 26, 2019, <https://www.wusa9.com/article/news/anatomy-of-a-family-tragedy-fiance-mystified-byapparent-suicide-by-cop-in-thurmont/65-74e6eede-4b39-429c-971c-63f361e6e81d>.

shooting as part of a “troubling pattern” of “ongoing failure” to de-escalate situations with people who may have mental health issues in the region.⁴⁰

A *Washington Post* investigation documented several recent deadly force cases, including the case of Daniel Vail, who was shot at 18 times in his own apartment; Jarrel Gray, a Black man killed after a deputy deployed a stun gun twice on him; a dog shot without warning by a deputy for barking, for which the family was awarded damages; and a man fatally shot after threatening deputies with scissors.⁴¹

IV. Inhumane Jail Conditions

Detention conditions at the jail are also relevant to the question of whether ICE should continue its 287(g) agreement with Frederick. When ICE taps state and local law enforcement agencies to assist in immigration enforcement, it prolongs immigrants’ time in local jails. Moreover, when the federal government partners with abusive jails through the 287(g) program, it tacitly sanctions these conditions.

In March 2023, dozens of individuals detained at the jail reportedly complained that after the sewage system collapsed, they were surrounded by human feces for hours – even forced to sleep in their own feces. As a result, they complained of respiratory symptoms, diarrhea and skin rashes. “Instead of moving to another block or moving to another place where we had better hygiene and security, what they did immediately was... lock us in our cells,” Jairo Espinoza told media.⁴²

The local jail also has a history of people dying by suicide and suffering medical crises while detained. In January 2021, a man was dead from suicide while detained in the jail.⁴³ In December 2020, a woman died by suicide in the jail while she was in a 14-day COVID-19 quarantine protocol for all new detainees.⁴⁴ In 2014 and 2015, the department settled at least three

⁴⁰ “ACLU: Hyattsville Police Shooting Part of Troubling Pattern,” *Route 1 Reporter*, October 6, 2019, <https://route1reporter.com/2019/10/06/aclu-hyattsville-police-shooting-part-of-troubling-pattern/>.

⁴¹ Michael S. Rosenwald, “Frederick County Sheriff Chuck Jenkins Is Loathed and Loved After Down Syndrome Death,” *Washington Post*, August 3, 2013, https://www.washingtonpost.com/local/frederick-county-sheriff-chuckjenkins-is-loathed-and-loved-after-down-syndrome-death/2013/08/03/8494e170-f54c-11e2-aa2e4088616498b4_story.html.

⁴² Rosbelis Quionez, “Inmates claim they slept in feces at Fredrick Detention Center,” March 21, 2023, <https://www.telemundowashingtondc.com/noticias/local/reclusos-denuncian-que-durmieron-entre-heces-en-el-centro-de-detencion-de-frederick/2188152/>;

⁴³ Elliot Henney, “Inmate Allegedly Hangs Himself at Frederick County Jail Wednesday,” WJLA, January 20, 2021, <https://wjla.com/news/local/inmate-hangs-himself-frederick-county-jail>.

⁴⁴ “Female Inmate Found Dead at Frederick County Adult Detention Center,” WFMD, December 27, 2020, <https://www.wfmd.com/2020/12/27/female-inmate-found-dead-at-frederick-county-adult-detention-center/>.

wrongful death lawsuits following multiple suicides in the facility between 2009 and 2010.⁴⁵ In 2021, the facility suffered a COVID-19 outbreak infecting multiple staff and detainees.⁴⁶ In 2018, a state public defender accused the sheriff of unconstitutional jail conditions, especially in its prolonged detention of minors in a jail facility designed for adults, which Jenkins disputed.⁴⁷

V. Limited Transparency and Stymied Accountability

In May 2019, Jenkins canceled a steering committee meeting despite concerns by local activists and complaints from city officials about his lack of transparency.⁴⁸ Jenkins failed to provide information about the 287(g) program’s operation, including statistics on deportations and arrests, despite a formal inquiry filed by Rep. David Trone, whose Congressional district includes part of Frederick County.⁴⁹ As part of the settlement agreement in an ACLU of Maryland case, Jenkins is now required to hold steering committee meetings regarding the 287(g) program. In July 2021, Jenkins held a virtual steering committee meeting that consisted of a one-sided presentation on the program, rife with “fearmongering stereotypes of immigrants as criminals,” as a local legal advocate described it, and did not include an opportunity for real-time public comment.⁵⁰

⁴⁵ Danielle Gaines, “Wrongful-death Lawsuit at Frederick County Jail Settled,” *The Frederick News-Post*, May 4, 2015, https://www.fredericknewspost.com/news/crime_and_justice/wrongful-death-lawsuit-at-frederick-county-jailsettled/article_fbb20a89-0110-536e-9471-feed4ca8e279.html.

⁴⁶ Timothy Young, “4 Inmates, 6 Officers Test Positive for COVID-19 at Frederick County Adult Detention Center,” *WDVM*, January 8, 2021, <https://www.localdvm.com/news/maryland/4-inmates-6-officers-test-positive-for-covid-19at-frederick-county-adult-detention-center/>.

⁴⁷ Cameron Dodd, “Jenkins Calls Allegations About County Jail Conditions for Juveniles Untrue,” *The Frederick News-Post*, September 4, 2018, https://www.fredericknewspost.com/news/crime_and_justice/prison/jenkins-callsallegations-about-county-jail-conditions-for-juveniles-untrue/article_5eda85d4-b797-5a43-956f-3d8ad8a24150.html.

⁴⁸ ACLU of Maryland, “RISE, ACLU File Open Meeting Complaint Against Frederick County Sheriff’s Office for Shutting Down Steering Committee Meeting on 287(g) Program,” press release, July 23, 2019, www.aclu-md.org/en/press-releases/rise-aclu-file-open-meetings-complaint-against-frederick-county-sheriffs-office; Steve Bohnel, “Inspector General’s Letter: Sheriff Jenkins Not Required to Hold Public Meetings on 287(g),” *The Frederick News-Post*, January 27, 2020, www.fredericknewspost.com/news/politics_and_government/levels_of_government/county/council/inspector-general-letters-letter-sheriff-jenkins-not-required-to-hold-public-meetings-on-287-g/article_5a8e7e07-d7b1-5d87-8b04-74b96331a98d.html.

⁴⁹ See “Seven Truths Surrounding 287(g) Programs,” ACLU of Maryland, April 9, 2020, www.aclumd.org/en/news/seven-truths-surrounding-287g-programs.

⁵⁰ Viviana Westbrook, “Federal Program in Frederick County Stokes Fear of—and in—Undocumented Immigrants,” *The Baltimore Sun*, July 21, 2021, www.baltimoresun.com/opinion/op-ed/bs-ed-op-0722-frederick-sheriff-jenkins20210721-5ztbq6ilmnaszflmjgibcmkskda-story.html.

Following Jenkins’s federal court arraignment on April 14, 2023, he took a “leave of absence,” but nevertheless presided over the June 21, 2023 287(g) Steering Committee meeting.⁵¹ At the meeting, Jenkins and Sheriff’s Office staff presented a biased narrative of the program. Much of the Sheriff’s Office presentation was a slideshow of “Significant Incident’s [*sic*]” describing charges lodged against a cherry-picked handful of individuals subjected to the program, with frequent emphasis on convicted individuals’ suspended sentences.⁵² When asked the criteria for terming an incident “significant,” Sheriff’s Office staff replied simply, “they were significant incidents”; when prodded again, he said they were “at least felonies or what we consider crimes of violence or some other significant factor with it.”⁵³ This obfuscation suggests the Sheriff’s Office picked incidents selectively, to aid the Sheriff’s Office purpose of stoking racist fears of immigrants as criminals posing a threat to the county.

Sheriff’s Office staff wrongly contended that they received no racial profiling complaints regarding the program; and when asked about lawsuits filed against the Sheriff’s Office for racial profiling, staff incorrectly stated that these lawsuits had nothing to do with the 287(g) program. In fact, the arrest of Roxanna Orellana Santos was performed in the name of 287(g), and the *Medrano v. Jenkins* lawsuit was joined by the RISE Coalition, which, as an organizational plaintiff, provided evidence of a pattern of racial profiling that was directly influenced by the Sheriff’s involvement in the 287(g) program. It is highly misleading to claim that the program has no relevance to the Sheriff’s Office’s misconduct because the officers who were directly involved in Ms. Orellana Santos’ and Ms. Medrano’s lawsuits were not 287(g) deputized officers.

Jenkins closed the meeting after a scant 26 minutes, ending with these falsehoods and disregarding questions and comments from several people in the videoconference platform. This disregard is standard routine, and the Steering Committee meetings have frequently been nothing more than a platform for Jenkins to continue spouting his prejudice without providing the public a meaningful opportunity to respond or query the facts.

VI. Recommended Investigatory Actions

We request that CRCL initiate an investigation, including these steps:

1. Request data from the Sheriff’s Office regarding all individuals subject to immigration questioning, including demographic information and the initial basis for the stop;
2. Conduct a site visit, including interviews with all Sheriff’s Office personnel deputized for the program; interviews with local community leaders and impacted individuals;

⁵¹ Fredrick County Sheriff’s Office Annual 287(g) Meeting, YouTube, June 2023, <https://www.youtube.com/watch?v=YrKcRJtvXT8&t=593s>.

⁵² *Id.*

⁵³ *Id.*

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3. Conduct local meetings with community stakeholders including local school, health and social services officials;
4. Interview all ICE personnel involved in supervising Sheriff's Office activities;
5. Request and assess data regarding trainings conducted by ICE and the Sheriff's Office regarding the 287(g) program, racial profiling and civil rights compliance; and
6. Notify the Department of Justice Civil Rights Division of the investigation and jointly investigate the continued pattern of discriminatory policing in Fredrick County.

Upon any significant findings of racial bias, discrimination, misconduct or violation of the 287(g) agreement, we urge CRCL to make a recommendation to the ICE Acting Director to terminate the agreement with the Sheriff's Office.

Thank you for your time and attention to this complaint. We look forward to your response.

Sincerely,



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