

Perspectives on Immigration Enforcement

The conservative demand for stronger “immigration enforcement” continues to undermine the immigration policy reform debate, in spite of the fact that the current administration has engaged in stronger (and often over-vigorous) enforcement than its predecessor. The two articles below explore the immigration enforcement debate from different angles. The first, by PRRAC Research Fellow Silva Mathema, examines the local implementation of one of the most controversial immigration enforcement laws, which seeks to enlist local law enforcement to assist ICE in immigration enforcement. The second, by Angela Duger, lay out a progressive alternative to strict immigration enforcement policies.

— the editors

Lessons Learned from a Federal-Local Immigration Enforcement Program in Charlotte-Mecklenburg, North Carolina

by Silva Mathema

The post-election renewed fervor surrounding immigration policy reform and the bipartisan consensus to “fix” the “broken” system in the United States has opened up a window for a comprehensive solution. The President’s recent (Jan. 29) speech on immigration reform and the *Bipartisan Framework for Comprehensive Immigration Reform* released by a group of U.S. Senators show that enforcement, either border or local, is likely to be one of the components of this immigration overhaul. As policies are being crafted to appease both sides of the aisle, policymakers should not overlook that these policies have direct and

indirect consequences on how immigrants choose to or are able to live in their communities. Apart from the factors such as English language proficiency, financial capital (Nee & Sanders, 2001) and their social networks (Hagan, 1998), the processes of integration of every immigrant is influenced by the laws and socio-political environment of a receiving society (Berry, 2003). My research explores the impacts of a federal-local partnership called the 287(g) program on these processes of integration of Hispanics in Charlotte-Mecklenburg, North Carolina.

The Program

Section 287(g), a provision of the Immigration and Nationality Act (INA), was introduced in 1996. By signing the Memorandum of Agreement (MOA) with the Immigration Control and Enforcement (ICE) agency, local jurisdictions were given the authority to identify and detain undocumented immigrants who are suspected of or charged with a criminal activity, who could then be processed by ICE for deportation. From 2002 to October 2012, there were 57

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Using the Boston Principles: Fighting for the Economic, Social and Cultural Rights of Noncitizens

by Angela Duger

With new state legislation aimed at undocumented immigrants, noncitizens residing in the United States are experiencing increasing violations of their economic and social rights. States legislation enacted over the past 15 years, like Alabama’s HB56 law, has limited the social and economic ser-

vices available to noncitizens. For example, when originally passed, HB56 barred undocumented immigrants from enrolling in state colleges and universities; authorized local police to inquire about the immigration status of any person stopped if the officer has

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active agreements across 21 states. Between January 2006 and October 2012, the program has identified more than 304,678 removable individuals from the local jails in the U.S. and invested approximately \$320 million (ICE, 2012a). The total number of individuals removed by the program from January 2006 to February 2012 is 168,171 (DHS, 2012). Previous research suggests that, like any other government program, 287(g) has several intended and unintended consequences on the community.

Focus on Hispanics

My research focused primarily on Hispanics, as they are thought to be most acutely affected by 287(g) (Nguyen, 2010), framing the impact of 287(g) in terms of three axes or processes of integration: social trust, interaction, and mobility. I also investigated the impacts of 287(g) through the lenses of local service providers who are instrumental in providing an infrastructure for newcomers to integrate into the community. More specifically, I sought to answer the following questions:

- How does the 287(g) program impact social trust that Hispanics place in the service providers as well as the community?
- How does the 287(g) program impact the interaction of Hispanics with the service providers and the community?
- How have mobility patterns of Hispanics shifted after the implementation of 287(g)?

Why Charlotte-Mecklenburg, North Carolina?

The demographic change in the United States is indisputable at the national level and even more so at the local level. Mecklenburg County, North Carolina was an ideal labora-

tory for assessing the impact of 287(g), as the rapidity of growth in immigrant population made Charlotte one of the top five pre-emerging immigrant gateways in the U.S. (Singer, 2004). Furthermore, the Charlotte metropolitan area became the fourth largest “Hispanic hypergrowth” area in the U.S. after an increase of 932% in its Latino population from 1980-2000 (Suro & Singer, 2002). From 2000 to 2010, the Census reports that the Hispanic population in Charlotte city continued to increase, from 39,800 to 95,688 (Census, 2010).

Accompanying the change in demography, the local perception of immigration had shifted negatively. In 2006, Mecklenburg County formally signed the Jail Enforcement Model of

The MOA of 287(g) articulates that its aim is to increase public safety by focusing on “criminal aliens who pose a threat to public safety or a danger to the community.”

287(g) agreement which authorizes a few trained local sheriff’s deputies to determine the legal status of individuals only after they have been arrested and brought to the jail for booking. The Mecklenburg County Sheriff’s Office sought a partnership with the Charlotte Mecklenburg Police Department (CMPD), but CMPD resisted these efforts and chose not to get involved in the 287(g) program (Furuseth & Smith, 2010). The Mecklenburg County Sheriff’s office reports that from 2006 to January 2013, they have processed 12,289 individuals for removal, among which 2,979 were arrested for Driving While Impaired (MCSO, 2013).

Another type of 287(g) agreement called the Task Force Model allows trained officers to ask about legal status of individuals as a part of their routine policing duties. On December 21, 2012, ICE released a statement that it

is not going to renew the partnerships that use the Task Force Model of 287(g) (ICE, 2012b).

The Data

The main data for this research come from the in-depth interviews conducted from November 2011 to April 2012 in Charlotte-Mecklenburg. The study used semi-structured, open-ended and in-depth interviews with a wide range of service providers – namely, law enforcement, advocacy organizations, community representative, health care and education. The sample has a total of 46 individuals (63% Hispanic). Due to the high Hispanic representation, many respondents were able to speak from both professional and personal experiences. (Throughout this article, “Hispanics” and “Latinos” are used interchangeably and denote individuals whose ethnic descent derives from South and Central America.)

All the interviews were transcribed verbatim, and a method called Framework Analysis was used to code and analyze the transcripts (Ritchie & Spencer, 2002).

Before summarizing the main findings, it is important to mention that 287(g) did not occur in vacuum. There are other exogenous events that may have impacted the lives of Hispanics in Charlotte-Mecklenburg. For example, the recent economic downturn; the September 11, 2001 terrorist attacks which may have created a general sense of anti-immigrant feelings in the communities; and other institutional changes at the state level may have contributed to cause or exacerbate the impacts of 287(g).

Differences in the Perception of the Intention of 287(g)

The MOA of 287(g) articulates that its aim is to increase public safety by focusing on “criminal aliens who pose a threat to public safety or a danger to the community” (ICE, 2009). Amidst

criticism from researchers and activists, 287(g) was reformed in 2009 and local partners were urged to prioritize serious criminals over minor ones in their proceedings. There is an indication that 287(g) provides local law enforcement officers with the tools that streamline the process of background checks of undocumented individuals and make identification a much easier process. Furthermore, law enforcement officers and other service providers agreed that Hispanics were careful about drinking and driving. However, the findings also suggest that there are other underlying intended consequences of 287(g) on the Hispanic community. There was variability in the perception of the law's impacts even among the law enforcement officers. Some law enforcement officers reasoned that in instances where infractions were not serious, if that individual did not have a proper form of identification, then there was no way of knowing whether the person was a dangerous criminal in his/her country. Other respondents, mostly advocates and public service providers, perceive that the intention of 287(g) is to identify and remove undocumented individuals, regardless of the severity of their crime. Respondents believed that although the situation had improved after the reform and local leadership changes, more individuals were still being processed for minor crimes.

The Mecklenburg County Sheriff Department's reports show that 287(g) has processed more individuals with misdemeanors than felonies. Since the inception of the program in 2006 up to 2011, the percentage of misdemeanors processed by 287(g) is consistently greater than 80%. By comparison, the percentage of individuals who have committed felonies rarely rises above 15% during this time frame (MCSO, 2012).

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Compounding Effect of 287(g) on the Erosion of Trust in the Law Enforcement and Other Governmental and Government-affiliated Organizations

Reaffirming previous research, the accounts of local law enforcement authorities and other service providers suggest that there is evidence of a decrease of trust in law enforcement after 287(g). These respondents perceive that Hispanics are more fearful of calling local law enforcement even when the need arises. For example, many respondents are concerned that crimes,

Involvement of local law enforcement in immigration enforcement may have an impact on immigrants' access to other municipal services.

domestic violence abuses, other types of abuses and even accidents go unreported because of the fear of interacting with law enforcement. If these concerns are valid, 287(g) may have made the larger communities unsafe.

Speaking before Congress, the International Association of Chiefs of Police (IACP) reports that there is a chance that the 287(g) program may have a "chilling effect" on the immigrant community (*Testimony of IACP*, 2005, p. 11). However, some law enforcement officers state that they have not seen any changes in reporting of crimes and there was no "chilling effect" on the immigrant communities. One of the officers' comments on the relationship the law enforcement officers had with the Hispanic community was, "How can you chill something that is already frozen?" It may be that Hispanics have been unwilling to cooperate with law enforcement before 287(g), but the situation may have worsened after the program.

There were also concerns that misinformation about 287(g) among the law enforcement officers as well as the Hispanic community adds to the increase in impact.

Findings of this research also indicate that there may be a blanket erosion of trust, not only in sheriff's deputies who are directly involved in the program, but also in other law enforcement, such as CMPD officers who usually make the initial arrest. In his study of 287(g) and Secure Communities in Wake County, NC (see below), Coleman (2012) suggests that the role of law enforcement agencies that are not formally involved with federal authorities may be an important facet in studying the impacts of these immigration enforcement programs.

My research also provides evidence that the loss of trust in law enforcement authorities may have spread to other government-affiliated organizations. Organizations responsible for providing various services for city and county residents express views that Hispanics are fearful of accessing their services. These include the court, city services organizations and other government-affiliated organizations. The fear stems from the possibility that, from the misinformed Hispanics' perspective, these organizations may be a façade to catch and remove undocumented individuals. As one public service provider stated:

I think 287(g) created that distance between the government agencies and the needs of the Latino community ... but we believe that since the role [of the police] as protectors was affected by this mistrust, we also believe that some of that affected us too.

These results are in line with the findings of previous research, which suggests that involvement of local law enforcement in immigration enforcement may have an impact on immigrants' access to other municipal services (Khashu, 2009). Additionally, an interim report on immigration enforcement, especially 287(g), in Prince William County, Virginia concludes that the policy has decreased

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Hispanics' trust in government from 65% to 50% (Guterbock et al., 2009).

Government service providers are concerned that Hispanics are hesitant to give out personal information to access government or government-funded services because they do not know whether the information will be shared with law enforcement authorities. Similar fear about information-sharing is documented in schools and hospitals. This mistrust about information-sharing may have existed before the program, but again, the 287(g) program may have compounded the effect.

Strengthening Trust in Non-governmental Organizations (NGOs)

Contrarily, trust in organizations that cater specifically to Hispanics seems to have increased in the wake of the program. These are mostly advocacy organizations, churches, Hispanic media, law firms and private service providers. The findings suggest that more Hispanics are coming to these organizations, either to participate in their activities or to take advantage of their programs. Some advocacy organizations have hired lawyers to meet the increased demand for legal counsel arising partly as a result of 287(g), while others have information sessions about procedures to follow in case a family member is deported. One advocacy organization reports that they serve as a liaison between law enforcement and the Hispanic community in terms of reporting crimes like domestic violence. These organizations seem to have positioned themselves as a safety net for the Hispanic community and provided an important network for Hispanics to find out information about basic living in Charlotte-Mecklenburg.

Adverse Impact on Daily Mobility

My findings suggest that the impact of 287(g) on the Hispanic community in Charlotte-Mecklenburg may have been exacerbated as a result of its intersections with other policy changes at the state and federal level. The issue goes back to the inability of law enforcement authorities to identify individuals without an identification card. Regardless of the severity of the crime, it is critical for law enforcement authorities to determine the identity of the individual with whom they are dealing. The action of the North Carolina DMV to stop issuing licenses to individuals who cannot provide all the required documentation has prevented many undocumented individuals from getting driver's licenses or other identification cards (Weissman et al., 2009). However, service pro-

While localities may not be able to internalize all the negative consequences . . . policy-makers can learn from the previous mistakes.

viders note that many Hispanics who need to drive to work to earn their living still take the risk and drive without driver's licenses. This action puts them at risk of being stopped for a minor violation, such as going over the speed limit or being stopped at a traffic checkpoint, where they may be asked to produce an identification card. Without any proof of identity, it will fall upon the officer to decide whether to take these individuals to jail to fingerprint them or issue him/her a citation. The prospect of getting arrested for a traffic violation may have made many Hispanics scared and uncomfortable to drive around Charlotte.

Other Unintended Consequences

The 287(g) program may also be having an impact on the general social interaction of Hispanics in Charlotte-Mecklenburg. For example, interviews with service providers suggest that Hispanics maintain a low profile and rarely go out for recreational activities. 287(g) may sometimes separate families, causing more negative social consequences on children who are left behind. Even the prospect of a parent being deported impacts the well-being of a child and has the potential for affecting his/her academic performance. This research suggests that in the event of a parent being deported, there is a possibility that the child is vulnerable, financially as well as mentally. Future research should also investigate how these types of local immigration enforcement policies can potentially have a broader impact on children and immigrant families.

Lessons for Other Areas

Lessons learned from Charlotte-Mecklenburg can serve as a guideline for other areas, as Mecklenburg County is not only the first jurisdiction in the Southeast region to sign the agreement, but the language that the Mecklenburg County's MOA uses has served as a template for 54 other jurisdictions across the U.S. (Capps, Rosenblum, Rodriguez & Chishti, 2011).

Conclusions

These findings indicate that the unintended consequences of 287(g) stem from three factors: (1) Many individuals who are convicted of minor offenses, like traffic infractions, are processed by 287(g); (2) Misinformation among both the Hispanic community and local law enforcement; and (3) 287(g) may have compounded the mistrust, unwillingness to interact, and mobility issues that may have previously existed. These issues are even

more pronounced in pre-emerging gateways like Charlotte-Mecklenburg, which do not have special types of services that immigrants need to integrate into the larger community. While localities may not be able to internalize all the negative consequences and enhance the positive, policymakers can learn from the previous mistakes to minimize the negatives. Resolving these issues may assist in the implementation of such programs according to its intended goal.

Some Principal Recommendations

- There is a need to find a solution for the problem of identification to ensure that individuals do not get arrested for misdemeanors, such as traffic infractions. For example, jurisdictions can issue identification cards or accept other forms of identification.
- There should be a concerted effort to target misinformation about enforcement programs among Hispanics. The local law enforcement in Charlotte-Mecklenburg already does some outreach, but the efforts need to be strengthened.
- Other governmental service providers should reach out to these Hispanic communities and constantly spread the message that they are available to help them.
- Non-governmental organizations should act as a bridge between the government organizations and the Hispanic community.

- Communities should be involved during the policymaking process that affects them, and the lines of communication should be kept open even after the policy has been implemented.
- Along with educating Charlotte-Mecklenburg's Hispanic residents, other law enforcement officers who are not trained by ICE on 287(g) should also be educated about the program, as they are usually the ones who make the initial arrest.
- A program like 287(g) should have built-in transparency and accountability.

As this research indicates, many respondents agree with the core intentions of the 287(g) program. While the fate of the program is on the line, ICE has issued a guidance to refocus on serious undocumented criminals and believes that another program called Secure Communities is a much better option to target criminals (ICE, 2012b). Secure Communities, an information-sharing system between FBI and ICE piloted in 2008 and targeted to go nationwide in 2013, is still in its nascent phase and the impacts are beginning to be studied. However, this program is likely to simply perpetuate the problems inherent in the 287(g) program. If enforcement must be a part of comprehensive immigration policy reform, policymakers should be cautious in implementing these programs, as their implementation differs according to localities and have varying consequences on immigrants and their communities. □

Resources

For more information on reform of immigration enforcement policy, go to the Immigration Policy Reform page of the National Network for Immigrant and Refugee Rights [headed by PRRAC Board member Cathi Tactaquin] at www.nnirr.org/~nnirrorg/drupal/immigration-policy-reform (includes the "10 Principles for Ensuring Fair and Humane Immigration Policy" drafted through the Reform Enforcement Caucus).

Additional information on immigration policy reform can be found on the National Council of La Raza's Immigration page, available at http://www.nclr.org/index.php/issues_and_programs/immigration/ (covering a wide range of issues, including the DREAM Act, immigrant integration, immigration enforcement reform, naturalization, state and local initiatives, and agricultural jobs).

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reasonable suspicion that they are an undocumented immigrant; criminalized knowingly renting an apartment to an undocumented immigrant; and required elementary and secondary schools to inquire about the immigration status of all students. (HB56 was subsequently challenged and most of the provisions were enjoined by the District Court in September 2011 and the 11th Circuit in August 2012. The Alabama Legislature also passed HB658 in May 2012, which amended many of the HB56 provisions.)

The changing nature of federal immigration enforcement and sub-national restrictions on the rights of non-citizens has spin-off effects. Consider, for example, that increasingly families living in the United States are mixed-status families, meaning families are comprised of both citizen and noncitizen members:

"An estimated 14.6 million people are living in some sort of mixed-status home where at least one member of the family is not authorized. Currently, *one in ten children* living in the United States is growing up in such a household. There are multiple patterns of mixed authorization: 41 percent have one documented parent with the other parent undocumented; 39 percent have two undocumented parents; and 20 percent live in households headed by a single undocumented parent. Within these mixed-status households are also a range of documentation patterns involving siblings: some born in the States with birthright citizenship, some in the process of attempting to obtain documentation, and some fully undocumented." (emphasis in original) See Suarez-Orozco et al. citation in Resources Box.

State policies directed at noncitizens, in addition to directly denying a broad spectrum of the rights to noncitizens, also indirectly deny the rights of legally documented family members who are citizens.

For example, the fear of a parent's deportation could prevent a citizen child of a noncitizen parent from ac-

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cessing public services like education. The first Monday after the passage of Alabama's HB56 law, news sources reported that 2,200 Latino students were absent from school. This is an estimated 7% of the Latino school population in Alabama. Institutional and targeted discrimination of noncitizens affects not only noncitizens themselves, but also their families, social circles and the communities in which they live.

The Boston Principles on the Economic, Social and Cultural Rights of Noncitizens ("Boston Principles") were developed to provide a human rights framework to address the rights of noncitizens in response to the increasing pressures of federal and state policies. On October 14 and 15, 2010, a group of scholars, lawyers, practitioners and advocates met at Northeastern University for a two-day Institute, "Beyond National Security: Immigrant Communities and Economic, Social and Cultural Rights." The event was co-sponsored by the Program on Human Rights and the Global Economy (PHRGE) and the Human Rights Interest Group of the American Society of International Law. Participants engaged in writing the first draft of The Boston Principles, which was subsequently revised and released for public comment on December 10, 2010, International Human Rights Day. The final version of The Boston Principles was released on May 1, 2011.

The Boston Principles are 30 stan-

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dards articulating the basic rights of noncitizens, including fundamental human rights concepts such as equality, non-discrimination, human dignity and due process. Recognizing that rights are interdependent, intersectional and collective, a human rights framework accounts for the rights of noncitizens, as well as those of their families and communities. The Boston Principles incorporate the rights to health, education, employment, hous-

ing, family life, accountability of government and the protection of vulnerable populations. In outlining the basic, universal human rights of noncitizens, The Boston Principles provide a framework to aid practitioners, lobbyists and advocates in addressing institutional and targeted discrimination against non-citizens.

It has been almost a year since The Boston Principles were finalized, and they are now an operational advocacy framework for advancing the economic, social and cultural rights of noncitizens and combating violations. The Boston Principles are effective because they can be applied to awareness and education campaigns, lobbying efforts and grassroots organizing at both the community and government levels. Holding government authorities accountable for domestic human rights standards requires a concerted effort by human rights practitioners at all levels, and The Boston Principles aids in this effort by providing a unified human rights framework. □

Resources

Carola Suarez-Orozco et al., "Growing Up in the Shadows: The Developmental Implications of Unauthorized Status" 81 *Harv. Educ. Rev.* 438 (2011), available at <http://her.hepg.org/content/g23x203763783m75/fulltext.pdf> (internal citations omitted).

For more information on The Boston Principles, see <http://www.northeastern.edu/law/academics/institutes/phrge/publications/boston-principles.html>.

For a detailed discussion of The Boston Principles, see "The Boston Principles: An Introduction," by Hope Lewis & Rachel Rosenbloom, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1975816.