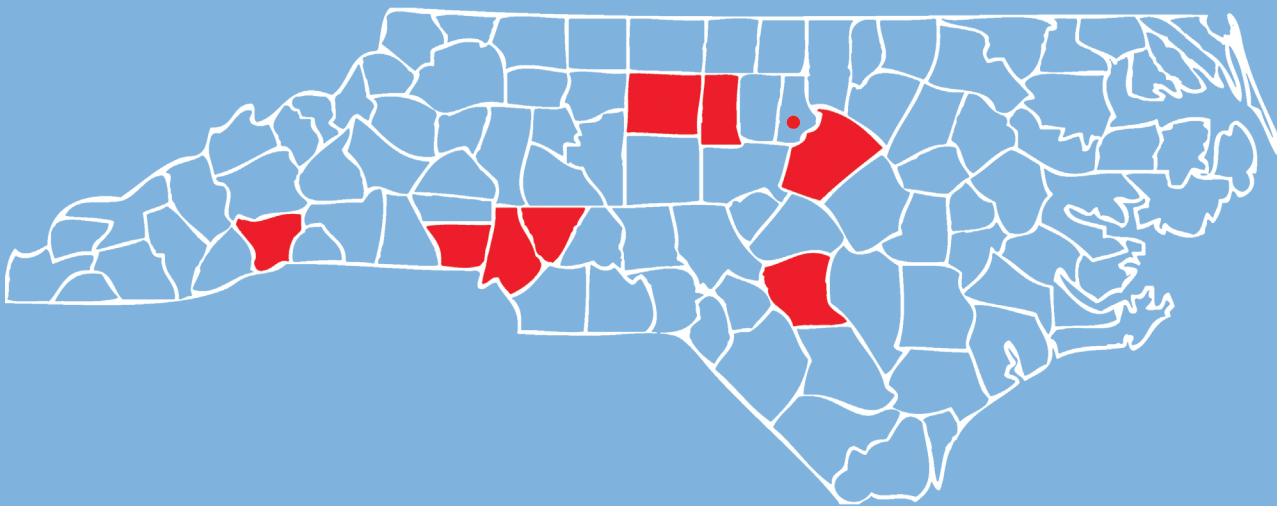


February 2010

The 287(g) Program

The Costs and Consequences of Local Immigration Enforcement in North Carolina Communities



Mai Thi Nguyen, PhD • Hannah Gill, DPhil

THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL



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The 287(g) Program: The Costs and Consequences of Local Immigration Enforcement in North Carolina Communities

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Executive Summary

As of October 2009, sixty-seven 287(g) partnerships between local or state law enforcement agencies and U.S. Immigration and Customs Enforcement (ICE) have been developed in twenty-three states. The 287(g) ICE ACCESS Program facilitates the sharing of responsibility and authority for crime and immigration control between multiple agencies. It also expands the authority of local and state law enforcement officials to enforce civil immigration violations which, prior to the program, were powers solely under the purview of the Federal government. This decentralization of responsibility over immigration enforcement – from Federal to State and Local governments – is radically transforming the immigration policy landscape. Southeastern states that have become new immigrant destinations have expressed a strong interest in the program, with North Carolina ranking highest nationwide in the number of local jurisdictions implementing the program. As a result, North Carolina is an important laboratory for examining the efficacy of the program in meeting its stated goals of improving public safety and exploring how local immigration governance has impacted communities.

This study examines the best available data on the 287(g) Program to estimate the costs and efficacy of this new public policy in North Carolina. North Carolina jurisdictions that have adopted the program include Alamance, Cabarrus, Gaston, Guilford, Henderson, Mecklenburg, Cumberland, and Wake Counties, and Durham City. Our research addresses three key questions about public safety, financial cost, and the relationship between immigration and crime.

Is there a relationship between immigration and crime?

Adoption of the 287g Program in jurisdictions throughout North Carolina has been supported by the perception that high rates of immigration are accompanied by rising rates of crime (both minor and serious), necessitating a program to facilitate deportations of criminal aliens who pose a threat to public safety. To test the validity of the perception that immigrants are more prone to criminal behavior, we examined rates of crime, immigration, and Hispanic population growth in all North Carolina counties. Our analysis of both crime incidences and rates over time

finds no evidence that Hispanic population growth or greater rates of immigration in North Carolina counties are associated with higher crime rates. In fact, violent crime has been decreasing since 1993 in counties during the time period in which the largest volume of immigrants entered. Mecklenburg County, which was a pioneer of the 287(g) movement in the state, had the most dramatic reductions in violent crimes during the 14 years leading up to the adoption of the 287(g) Program, which was also the highest growth period for its immigrants and Hispanics.

What are the monetary costs of the 287(g) Program to taxpayers?

The study analyzes the monetary cost of the program by investigating local, state, and federal taxpayer expenditures on program start-up and operation in the first two counties to adopt the 287(g) Program in North Carolina, Alamance and Mecklenburg. We estimate basic direct costs of the program for the first full year of operation, including program start-up, daily operations, and maintenance. The estimated basic direct cost for the first full year of operation in Alamance County, site of a new federal detention center, is \$4.8 million. The total cost for the first year of operating the 287(g) Program in Mecklenburg County is estimated at \$5.5 million. Beyond these costs, there are a number of indirect costs associated with policing civil immigration violators, which include litigation fees, reduction in local business revenue, lower sales tax revenue, and higher costs of services and goods.

Does the 287(g) Program meet its stated goals and improve public safety?

A public safety mission is a fundamental goal of the program, as its title makes clear: “ACCESS: Agreements of Cooperation in Communities to Enhance Safety and Security.” The program attempts to achieve these goals by enabling local law enforcement agencies to facilitate the deportation of “foreign-born criminals and immigration violators who pose a threat to national security or public safety.”¹ Specifically, ICE states that the 287(g) Program provides resources to local agencies to “pursue investigations relating to violent crimes, human smuggling, gang/organized crime activity, sexual-related offenses, narcotics smuggling and money laundering.

.² This strategy to enable local agencies to prioritize enforcement on serious criminals is intended to achieve maximum public safety with limited resources, ensuring that “finite detention space is used to detain the aliens who pose the greatest risk to the public.”³

Our research examined the efficacy of the 287(g) Program in meeting its stated goals to improve public safety and prioritize resources on high risk criminal aliens in North Carolina. This evaluation is based on an analysis of data provided by five counties’ sheriff’s offices (Alamance, Cabarrus, Gaston, Mecklenburg, and Wake) that include the type of crime that 287(g) inmates were charged with under the program between 2006 and 2008 and whether these charges are misdemeanors or felonies. Traffic violations are the most common state charge for individuals incarcerated through the 287(g) Program, representing 32.7% of the total charges. The two counties with the highest proportion of traffic violation charges are Gaston with 56.5% and Alamance with 40.7%. The second most common charge for individuals identified through the 287(g) Program was driving while intoxicated or DWI (22.5%), another driving related charge. A comparison of misdemeanors versus felonies revealed that 86.7% of all individuals booked through the program in counties of study were charged with misdemeanors, while 13.3% were charged with felonies. The focus on detaining and deporting immigrants for driving related incidences and misdemeanors suggests that the program is not prioritizing high risk criminal aliens, as outlined in its stated goals.

In order to further evaluate the program’s impact on public safety, our research examined civil immigration enforcement under the 287(g) Program and its effects on community relationships between police and Hispanic populations, the fastest growing immigrant population in the state. Focus groups and in-depth interviews with fifty Hispanic and non-Hispanic informants, including police officers in 287(g) jurisdictions, revealed trends of deteriorating relationships between communities and police, and growing reluctance of Hispanics (regardless of immigration status) to report crime and provide information as witnesses. Informants also reported an increase in the vulnerability of immigrants as crime victims.

Policy Recommendations

Given the high financial cost of the 287(g) Program, local jurisdictions must consider whether dedicating human and monetary resources and jail space to apprehending and incarcerating individuals suspected of committing

minor criminal offenses and traffic violations is a wise use of taxpayer funds, or if resources are better spent on efforts that have proven efficacy in tackling serious crime. As an anti-immigration program that has not clearly demonstrated its efficacy as a crime prevention or reduction tool, the unintended consequences of the 287(g) Program are far-reaching. Underreporting of crime and the increased victimization of immigrants negatively impact public safety. Ultimately, comprehensive federal immigration reform is a critical step toward more systemic solutions to the challenges of undocumented immigration in local communities throughout the country. Until this reform is passed, however, community leaders can improve existing programs or seek alternatives to the 287(g) Program. Based on the findings of this research, we make the following two policy recommendations:

- Existing 287(g) agreements should be limited to processing people convicted of felonies as opposed to misdemeanors or traffic infractions, in order to comply with ICE’s stated priorities that were reaffirmed in October 2009 when agencies signed new standardized memorandum of agreements. This practice will reaffirm the primary duty of local law enforcement to serve and protect all residents from crime, rather than to enforce immigration violations. This will help to minimize fear and distrust of local law enforcement, which has resulted in the underreporting of crime and increased vulnerability of immigrants as targets of crime.
- State and local jurisdictions should consider a number of cost-reducing alternatives to 287(g) that would prevent and fight crime without alienating immigrant and Hispanic communities and jeopardizing public safety. Alternatives to 287(g) strategies that have proven efficacy nationwide include community policing, outreach programs, and prevention education.

¹ http://www.ice.gov/partners/287g/Section287_g.htm

² Ibid.

³ Riley, William F. (March 4, 2009). “Examining 287(g): The Role of the State and Local Law Enforcement in Immigration Law,” p. 5. Testimony before the U.S. House of Representatives Committee on Homeland Security, Washington, D.C.

The full report may be downloaded online at
<http://isa.unc.edu/migration/resources.asp>

Introduction

Introduction

As of October 2009, sixty-seven 287(g) partnerships between local or state law enforcement agencies and U.S. Immigration and Customs Enforcement (ICE) have been developed in twenty-three states through a program called 287(g) ICE ACCESS or commonly referred to as the 287(g) Program.¹ This program authorizes local and state law enforcement officials to detect, detain, and deport unauthorized immigrants through a partnership with ICE, an agency of the Department of Homeland Security (DHS). The 287(g) Program facilitates the sharing of responsibility and authority for crime and immigration control between multiple agencies. It also expands the authority of local and state law enforcement officials to enforce civil immigration violations, which prior to the program, were powers solely under the purview of the Federal government. This decentralization of responsibility over immigration enforcement – from Federal to State and Local governments – is transforming the immigration policy landscape. As federal legislators re-engage in debates over comprehensive immigration reform in 2010, an understanding of the impacts of local immigration governance becomes critical.

In few other states has the 287(g) Program created so much widespread interest as in North Carolina, which has the most local jurisdictions (eight) implementing the program (see table 3).² In addition to the 287(g) Program, the Department of Homeland Security is piloting a similar initiative in the state called Secure Communities and plans to implement this program nationwide over the next four years.³ As a result, North Carolina is an important laboratory for examining the implementation of local immigration governance.

Immigration has become an increasingly controversial issue in North Carolina as communities have experienced rapid demographic shifts and immigration reform has been politicized at the national, state, and local levels. The issue of unauthorized immigration to the United States has become particularly contentious, for a number of key reasons. First, reports about the rapid rise in unauthorized immigration have estimated that between 11 and 12 million unauthorized immigrants are living in the United States. Second, the 2006 election cycle politicized immigration reform in elections at all levels, including local (e.g. city council, county commissioner, sheriff), statewide, and national elections. Not only did constituents pressure their elected officials on immigration reform, but a number of politicians elevated immigration as the dominant wedge issue in their political platforms in order to gain political support. Finally, the recent global recession has raised alarm about employment opportunities and resources. Thus, anxiety about the economy, concerns over the fiscal burdens attributed to growing numbers of unauthorized immigrants, and an election cycle that provided a highly visible stage for immigration debate have factored into a growing anti-immigration climate from 2006 until present.

1 Riley, William F. (March 4, 2009.) "Examining 287(g): The Role of the State and Local Law Enforcement in Immigration Law." Testimony before the U.S. House of Representatives Committee on Homeland Security, Washington, D.C.

2 U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security. Retrieved from http://www.ice.gov/partners/287g/Section287_g.htm on September 19, 2009.

3 See sidebar on Secure Communities, p. 43. http://www.ice.gov/pi/news/factsheets/secure_communities.htm

During this period, many local jurisdictions experiencing high levels of immigration became disillusioned with Congress's ability to enact comprehensive immigration reform. Many local officials and law enforcement officers blamed unauthorized immigrants for rising crime rates and burdening fiscal budgets. Seeking alternative strategies for deterring unauthorized immigration, local government officials and law enforcement leaders found a legal mechanism in section 287(g) of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) that would allow them to enforce immigration violations. While law enforcement officials have identified this program as another tool to enhance their ability to fight crime and identify criminal illegal aliens, 287(g) grants individual law enforcement agencies the power to enforce civil immigration laws and craft local immigration policies. The authorization of local law enforcement agencies to enforce federal immigration laws is a significant departure from historical precedent.

Research Objectives

Since the 287(g) program is relatively new and untested, there has been insufficient evaluation of the efficacy of the program in meeting its goals of reducing serious crime and improving public safety. Additionally, there is little research regarding the financial cost of the program to taxpayers. Reports have addressed racial profiling,⁴ impacts on community relationships, and compliance with oversight and transparency standards in MOAs.⁵ However, there is need for a more comprehensive evaluation of financial costs and social consequences of the program in not one but many jurisdictions throughout the state. Moreover, the 287(g) Program has been adopted in many locales because of the perception that immigration and rising crime are connected, with scant empirical evidence to support this. To address these gaps in research, we employed quantitative and qualitative methods to examine the best available data on the 287(g) Program to estimate the costs and efficacy of this new public policy in North Carolina. More specifically, we estimated local, state, and federal taxpayer expenditures on program start-up and operation in two local jurisdictions adopting the 287(g) Program. Furthermore, we examined the claim that immigrants are more prone to criminal behavior by analyzing the relationship between demographic change and crime rates in North Carolina counties. We also analyzed the type and severity of crimes that unauthorized immigrants have been arrested for under the 287(g) Program in five counties. Finally, we examined the impact of the program on community relationships between law enforcement agencies and Hispanic populations.

4 "The Policies and Politics of Local Immigration Enforcement Laws: 287(g) Program in North Carolina," Immigration & Human Rights Policy Clinic at University of North Carolina at Chapel Hill and the American Civil Liberties Union of North Carolina Legal Foundation, February 2009. Retrieved at <http://www.law.unc.edu/documents/clinicalprograms/287gpolicyreview.pdf>

5 Gill, Nguyen, Parker, and Weissman. "Legal and Social Perspectives on Local Enforcement of Immigration under the Section 287(g) Program." *Popular Government*, 74(3): 1-14, UNC School of Government (Spring/Summer 2009) <http://www.sog.unc.edu/pubs/electronicversions/pg/pgspsm09/article2.pdf>.

Recent Immigration to North Carolina

The Story of Recent Immigration to North Carolina

The Main Characters: Hispanics

Reactions to immigration in North Carolina are tied to dramatic demographic shifts that have occurred in the last two decades. The U.S. Census Bureau demographics for 2008 indicate that minorities comprise one-third of North Carolina's population.⁶ Mirroring national demographic trends, North Carolina has fewer Whites and more Hispanics.⁷ The release of the 2000 U.S. Census brought heightened awareness about migration trends in the Southeastern United States and media reports highlighted North Carolina as a leader in fast growth Hispanic states, with an increase of 393.9% since 1990.⁸ Although this statewide statistic is impressive, it masks the Hispanic population explosion occurring between 1990 and 2000 in some locales. For example, the Hispanic population of the city of Landis in Rowan County rose by a staggering 1,975% and Cabarrus County by 1,411%.⁹ People of Latin American descent brought new customs, traditions, and languages as they settled in large numbers in North Carolina communities.¹⁰ For a state that had very little experience with permanently settled Hispanics before 1990, these changes were not always welcome.

While there are many socio-cultural dynamics linked to rising immigration, much attention has focused on the economic impact of Hispanics. A 2006 report by researchers at UNC-Chapel Hill's Kenan-Flagler Business School¹¹ attracted significant media coverage on the costs of immigrants to the state of North Carolina.¹² According to the report, the 506,206 Hispanic residents' healthcare, education, and correctional bills cost the state \$816,599,000 in 2004 alone. In comparison, their spending and tax contributions to the state that same year was estimated to be \$755,520,000, creating a net deficit of \$61,039,000. This resulted in a cost of \$102 for each Hispanic resident in 2004. County and state officials responsible for budgetary responsibilities of healthcare, education, and law enforcement (e.g. detention facilities) have expressed concern that limited resources must be prioritized for U.S. citizens and authorized immigrants.

6 Collins, Kristin. (May 13, 2009). "Minorities Gaining Ground." *News & Observer*. <http://www.newsobserver.com/news/story/1526476.html>

7 While the U.S. Census Bureau categorizes Hispanic and Latino into one category, immigrants from Central and South America that migrated to North Carolina in recent decades self-identify as Latinos. Therefore, we use Hispanic and Latino interchangeably in this report.

8 U.S. Census Bureau. (1990). SF3 Files. <http://www.census.gov>

9 U.S. Census Bureau. (1990 & 2000). SF3 Files. <http://www.census.gov>

10 The effects of Hispanic settlement in Siler City, North Carolina can be found in: Cuadros, Paul. (2007). *Home on the Field: How One Championship Soccer Team Inspires Hope for the Revival of Small Town America*. New York, NY: Harper Collins.

11 See Kasarda, J and J. Johnson. (2006). "The Economic Impact of the Hispanic Population on the State of North Carolina." Chapel Hill, NC: Frank Hawkins Kenan Institute of Private Enterprise.

12 See five part series: "Illegal Immigration – Who Profits, Who Pays." (2/26/06-3/5/06) *News & Observer*. <http://www.newsobserver.com/1154/>

Although there is some evidence to suggest that local and state budgets face financial pressures in accommodating new migrants, the Kenan Flagler report cautions that these numbers do not tell the complete story about the economic impact of Hispanics. Hispanic labor and their low wages support entire industries, such as meatpacking, agriculture, and textiles, keeping these industries in business and making them more economically competitive.¹³ In addition, Hispanic labor in industries such as construction has a ripple effect on the economy, creating jobs in complimentary industries, such as the real estate and mortgage finance. These additional jobs contribute to the state economy in the form of income tax, property tax, and sales tax. Consumers also benefit from lower costs of goods and services due to cheaper Hispanic labor.¹⁴ When all of these benefits are considered, scholars concur that the contribution of Hispanic labor to the North Carolina economy is substantial, and most likely a net *gain* rather than a net *deficit*.¹⁵

Local Response to Hispanic Immigration

Despite the significant contributions of Hispanics to the overall labor market and the state's economy, the unevenness of the cost and benefits distribution drives local resentment about immigration. While the costs of absorbing a large number of immigrants are localized and primarily paid for by local governments, the benefits from immigrant labor are distributed among private businesses, state and federal government, and consumers. Resentment over the perception that immigrants are detracting from public resources coupled with a recession has fueled much of the rise in anti-immigration sentiment in North Carolina. By contrast, the decade of the 1990s was marked by plentiful jobs, affordable cost of living, and more positive perceptions of Hispanics, which created a receptive environment for migrants.¹⁶ As many Hispanics in this study reported, life in North Carolina was “muy tranquilo” or very peaceful. As a result, Hispanics started viewing themselves as permanent settlers and North Carolina a place to raise families. However, as Hispanic populations have grown and employment opportunities have dwindled in one of the worst recessions in decades, public officials in locales throughout state and nation have turned towards restrictive and punitive approaches to dealing with new migrants.

13 Johnson-Webb, Karen D. (2002). “Employer Recruitment and Hispanic Labor Migration: North Carolina Urban Areas at the End of the Millennium.” *The Professional Geographer*, 54(3): 406-421.

14 Kasarda, J. and J. Johnson. (2006). “The Economic Impact of the Hispanic Population on the State of North Carolina.” Chapel Hill, NC: Frank Hawkins Kenan Institute of Private Enterprise.

15 Dixon, Peter B and Maureen T. Rimmer. (August 13, 2009). “Restriction or Legalization? Measuring the Economic Benefits of Immigration Reform.” Cato Institute, Trade Policy Analysis no. 40. http://www.cato.org/pub_display.php?pub_id=10438.

16 This is based on 20 interviews with Latino community members and key informants conducted by the researchers in the spring and summer of 2006.

Local Immigration Ordinances

The Rise of Local Immigration Ordinances

The Case of Hazelton, Pennsylvania

A number of local jurisdictions throughout the nation have adopted ordinances that seek to discourage immigrants from settlement. A noted example of these efforts was Hazelton, Pennsylvania's adoption of the Illegal Alien Relief Act (IARA) or commonly referred to as the Hazelton Ordinance. The Hazelton Ordinance was admittedly intended to create a hostile climate that would make the city unlivable for unauthorized immigrants. On July 13, 2006, by a vote of 6-1, Mayor Lou Barletta and city council members in Hazelton adopted the IARA. In Barletta's own words, the message he wanted to send with the passage of the ordinance is that Hazelton will be "the toughest place on illegal immigrants in America."¹⁷ The twenty-four hour cable news channels and nationally syndicated talk radio shows rapidly disseminated details about the reported effectiveness of these tactics in driving out unauthorized immigrants.

The Hazelton Ordinance was influential throughout the country, and within a six-month period after the passage of the ordinance, several local jurisdictions in North Carolina adopted variations of the ordinance.¹⁸ Some aspects of these ordinances were symbolic, such as declaring English the official language of government business. Other measures included in ordinances imposed stiff sanctions on employers and landlords who hire and rent to unauthorized persons. Local leaders also intended for the new measures to create fear among unauthorized immigrants and discourage them from settling permanently. One example of a copycat Hazelton Ordinance was adopted by the Board of Commissioners in Gaston County, North Carolina, who intended to crack down on unauthorized immigrants by making employment, housing, and social services more difficult to obtain. Furthermore, the Board of Commissioners expanded the powers of local law enforcement to check immigration status of any individual committing a major or minor crime. These powers would, at a later date, be legally granted through the adoption of the 287(g) Program, not through the adoption of this ordinance (see sidebar for the official language of the policy).

North Carolina jurisdictions were not alone in their emulation of the Hazelton Ordinance. By July 2007, 125 local anti-immigration policies resembling elements of the Hazelton Ordinance had been proposed or adopted by local jurisdictions in the country.¹⁹ The diffusion of these ordinances across

17 Powell, M. and M. Garcia. (August 22, 2006) "Pa. City Puts Illegal Immigrants on Notice." *The Washington Post*. <http://www.washingtonpost.com>

18 Nguyen, Mai Thi. (2007) "Anti-immigration Ordinances in NC: Ramifications for Local Governance and Planning." *Carolina Planning*. 32(2): 36-46.

19 The Fair Immigration Reform Movement Organization released a database of recent local ordinances on immigration on July 23, 2007 at <http://www.fairimmigration.org>. This database is no longer available online but a hard copy of the database is available from authors of this report.

What is the 287(g) Program?

The 287(g) Program originated in Section 287(g) of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA), which authorizes the Department of Homeland Security to partner with local and state law enforcement agencies to enforce immigration law. The local and state law enforcement officers are offered several weeks of training by Immigration and Customs Enforcement (ICE) officers and upon completion of training are authorized to detect, detain, and deport unauthorized persons who come into contact with the law. To participate in the program, local and state law enforcement agencies must enter into an agreement with ICE

through signing a Memorandum of Agreement (MOA), which describes the role and authority of each party. Until October 2009, there were no criteria for uniformity across localities, thus each law enforcement agency entering into an agreement with ICE had flexibility to draft and adopt different MOAs. As a result, the implementation of the 287(g) Program was different in every locality. Starting in July 2009, ICE standardized the MOA for all existing and future contracts. It is important to note that the standardized MOAs do not guarantee that program implementation is uniform across local jurisdictions.

Reference: ICE Website, [http://www.ice.gov/doclib/pi/news/factsheets/060816dc287\(g\)factsheet.pdf](http://www.ice.gov/doclib/pi/news/factsheets/060816dc287(g)factsheet.pdf) and <http://www.ice.gov>.

the country slowed down as the American Civil Liberties Union (ACLU) and other organizations filed a legal suit that challenged the City of Hazleton on the grounds that their local immigration policies were unconstitutional. In the spring of 2007, the district court ruled that the City of Hazleton, as a municipality, had no authority to regulate unauthorized immigration.²⁰ The \$2.4 million in legal bills owed by the City of Hazleton after its defeat in court and the threat of a similar lawsuit most likely contributed to the drop-off in adoption of the copycat ordinances by other cities and counties.²¹

While the courts decided that a municipality could not regulate unauthorized immigration through discriminatory ordinances, a little-known section, 287(g) of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act, provided a legal alternative. Section 287(g) enabled local and state law enforcement officials to be trained by ICE to check immigration status and place unauthorized persons into deportation proceedings. The 287(g) section enabled the creation of the ICE ACCESS 287(g) Program, which grew in popularity: starting in January of 2006, sixty-seven local law enforcement agencies around the country partnered with ICE to implement the 287(g) Program.^{22, 23} In North Carolina, seven county sheriff's offices and one city police department started participating in the

20 *Lozano v. City of Hazelton*, 496 F. Supp. 2d 477 (M.D. Pa. 2007).

21 Light, Mia. (August, 2, 2009). "Hazleton Facing Financial Crisis." *Standardspeaker.com*. http://www.standardspeaker.com/news/hazleton_facing_financial_crisis

22 Riley, William F. (March 4, 2009). Examining 287(g): The Role of the State and Local Law Enforcement in Immigration Law. Testimony before the U.S. House of Representatives Committee on Homeland Security, Washington, D.C.

23 For a list of current partners, go to the U.S. ICE website at: [http://www.ice.gov/partners/287\(g\)/Section287_g.htm](http://www.ice.gov/partners/287(g)/Section287_g.htm)

With a vote of 5-1 (with one commissioner absent), Gaston County Board of Commissioners passed the following policies that they say relate to “illegal residents” on November 9, 2006:

- Cease and desist local funding for any local programs to non-qualified unauthorized residents.
- Discontinue all federally funded non-mandated programs servicing unauthorized residents.
- Discontinue all state funded non-mandated programs servicing unauthorized residents.
- Discontinue contracting with any local or out-of-county business employing or using identifiable unauthorized residents where county tax dollars are being expended.
- Update Minimum Housing requirements to address the number of individuals/families that can be accommodated in rental dwellings.
- County funded law enforcement agencies and the County Sheriff were instructed to “diligently battle the ever increasing criminal element which is growing daily with the influx of the unauthorized population” and to consistently check the immigration status of each unauthorized resident upon his/her arrest by means consisting of but not limited to accessible data, fingerprints, and/or federally verified social security numbers rather than tax identification numbers.
- Allow County Police to partner with ICE to verify unauthorized residents during any minor/major public safety infraction and if identified as unauthorized, detain for deportation.
- Without the ability to legally discern citizenship and based only on estimates of County services, any and all county departments or agencies were instructed to begin expenditure reductions for discretionary services provided to unauthorized immigrants.

program,²⁴ while fifteen more have expressed interest.²⁵

Figure 1 contains a map indicating the jurisdictions that have adopted and are interested in adopting the 287(g) Program. The jurisdictions that have adopted the program are located along the I-40 and I-85 corridors, the most urbanized areas experiencing rapid population growth in the state. There also appears to be a clustering effect of program adoption, which most likely results from neighboring jurisdictions’ fears about unauthorized immigrants “fleeing” 287(g) jurisdictions. After Mecklenburg County adopted their program, Gaston County Sheriff Alan Cloninger decided to adopt the 287(g) program to “discourage settlement by criminal aliens who were fleeing from neighboring Mecklenburg County.”²⁶

24 At the time of publishing this report, seven local jurisdictions had implemented the 287(g) Program in North Carolina, but another jurisdiction, Guilford County, recently entered into an agreement with ICE. Since they have not officially implemented the program, they are not counted in this report as having done so even though they have a signed MOA with ICE. Cumberland County did not resign its MOA in October of 2009.

25 Tony Queen, NC Sheriff’s Association, Personal Communication, 7/9/08.

26 Caldwell, Jr., Edmond W. “The North Carolina Sheriffs’ Association’s Perspective on the 287(g) Jail Enforcement Model.” *Popular Government*. 74(3): 2-18, p. 11.

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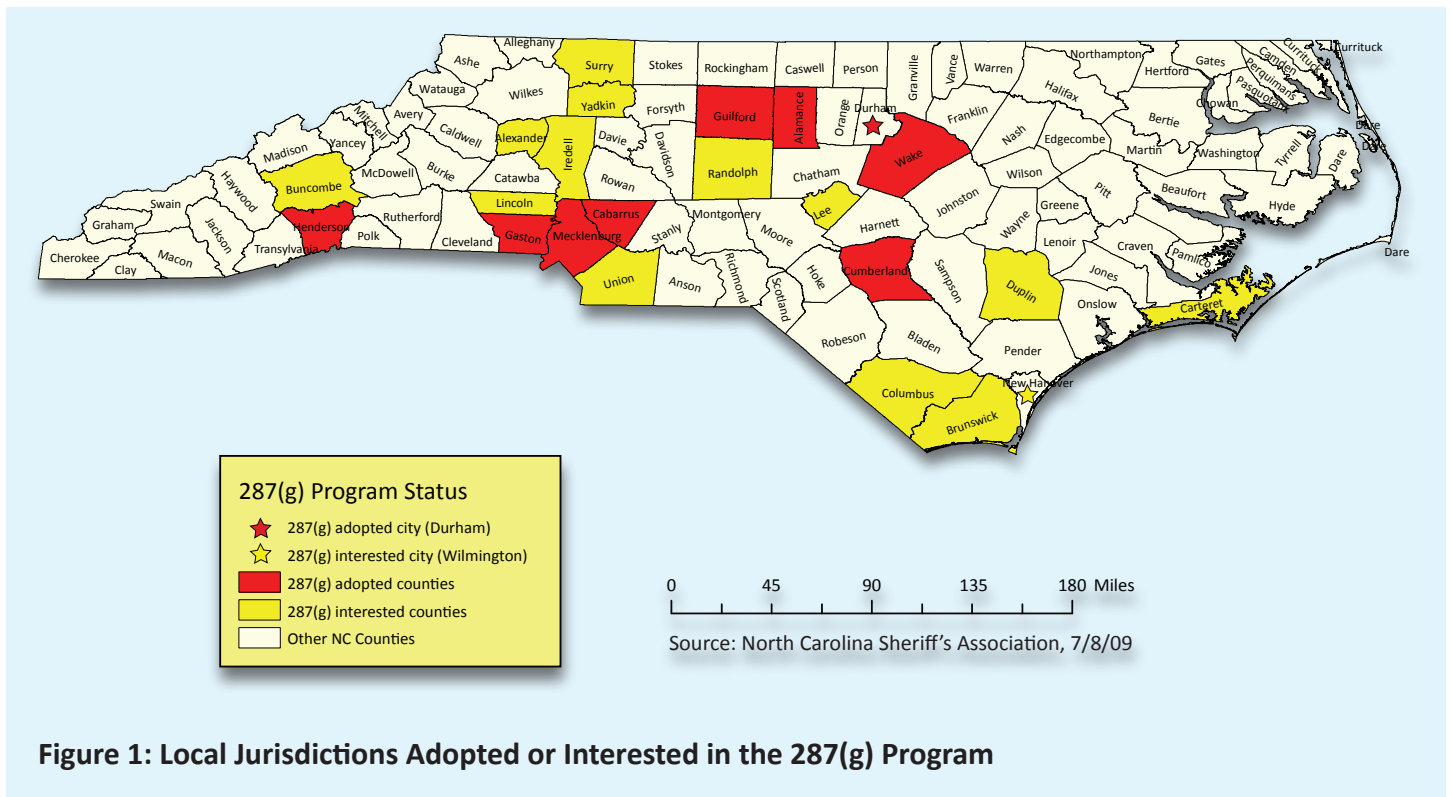


Figure 1: Local Jurisdictions Adopted or Interested in the 287(g) Program

The 287(g) Program in North Carolina

287(g)

Public officials' perspectives on the 287(g) Program

The spread of the 287(g) Program across the country has shifted the power of immigration enforcement from federal to local and state authorities. At the forefront of the expansion of the program are local elected officials, primarily, County Boards of Commissioners and Sheriffs.²⁷ In the view of many sheriffs and county commissioners across the state, immigration, especially Hispanic immigration, has altered the face of their communities and their detention centers. They perceive immigrants to be depleting resources through their disproportionate use of public services, such as education, health care, and correctional facilities. They report challenges in properly identifying inmates because many unauthorized immigrants use aliases, thereby making it difficult to obtain accurate criminal histories. Thus, local officials argue that there is no way to link the multiple aliases to fingerprints in a timely fashion without having access to the Federal immigration data through the 287(g) Program.

Proponents of the 287(g) Program, particularly ICE officials, local and state law enforcement agencies, and local and state politicians, report that some of the key benefits from the program are that it:

- Allows a multi-agency/multi-authority approach to combat crime more effectively
- Deters crime
- Authorizes local and state law enforcement agencies to more easily assist in deporting criminals who are not authorized to be in the country
- Enables local and state law enforcement officers to better coordinate their work with a third party (e.g. ICE)
- Grants local and state law enforcement the authority the tools to secure the homeland from foreign threats. As America's first line of defense, these powers are intended to enhance homeland security and make communities safer

The message often repeated by proponents is that the 287(g) Program enables law enforcement agencies to make our communities safer by properly identifying criminals, ensuring that they serve time for all the crimes that they have committed, and deporting them after they have served their jail sentences.

Although it is not explicitly written in the IIRAIRA legislation, the intent of the 287(g) Program, according to the U.S. Department of Homeland Security (DHS), has been to target violent and serious crimes, not civil immigration violations.²⁸ The DHS expresses the intent of the program on its website

27 There is one police department in North Carolina that has adopted the program and one interested in the program, but chiefs of police are not elected officials.

28 U.S. General Accountability Office. (2009). Immigration Enforcement: Better Controls Needed over Program Authorizing State and Local Enforcement of Federal Immigration Laws. <http://www.gao.gov/new.items/d09381t.pdf>

and in public statements, stating that 287(g) provides “necessary resources and latitude to pursue investigations relating to violent crimes, human smuggling, gang/organized crime activity, sexual-related offenses, narcotics smuggling and money laundering; and increased resources and support in more remote geographical locations.”²⁹ Supporting this language, public officials seeking approval of the program informed the public in 2007 that 287(g) would not target minor crimes, with assurances from like “We are not here arresting people with no operator’s license. . .” and “We are not messing with any misdemeanor stuff” (Alamance County Sheriff’s spokesperson Randy Jones and Sheriff Terry Johnson, respectively).³⁰

While DHS maintains that the purpose of 287(g) Program is to apprehend and deport serious and violent criminals posing the greatest threat to public safety and homeland security, there is nothing in the IIRAIRA legislation that precludes local law enforcement from using the program as an anti-immigration tool and arresting individuals for minor offenses. For example, former Sheriff of Mecklenburg County, Jim Pendergraph, made the following statements: “We’ve got millions of illegal immigrants that have no business being here... These people are coming to our country without documents, and they won’t even assimilate... this is about homeland security. This is about the sovereignty of our country.”³¹ When asked if he was opposed to “rounding up Latinos” whose only offense is living in the country without legal status, he indicated that he was not opposed to it.³² Contrary to earlier promises, the public statements of elected officials in Alamance County after the program had been approved began to reveal that 287(g) would be used in a way very different from its original intent: as a strategy to apprehend all unauthorized immigrants as opposed to primarily those who have committed more serious crimes. Tim Sutton, Alamance County Commissioner who was instrumental in the adoption of the 287 (g) Program, discussed the intent of the program saying, “287(g) deters local crime by illegal aliens. But that’s not the only thing I am after. I want illegal aliens, to be honest with you, out of here. I don’t blink an eye.”³³

Two models of the 287g Program: Jail Model and the Task Force Model

North Carolina jurisdictions that have adopted the 287(g) Program have followed one of two different models: the jail model or the field model.³⁴ Most jurisdictions in North Carolina report that they follow a jail model, which means that trained officials check an individual’s immigration status in a detention center after an arrest is made. In the field model (officially in use by Durham City’s Police Department only), trained officers can interrogate and arrest individuals outside of detention centers. The field model enables local law enforcement to seek out unauthorized immigrants in all parts of the community, as opposed to identifying unauthorized immigrants detained in jails for crimes not related to immigration status. The field model also evidences a different approach to 287(g) as a tool for removal of unauthorized immigrants in a community as opposed to a program that deports criminals already

29 U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security. http://www.ice.gov/partners/287g/Section287_g.htm

30 Rivas, Keren and Winkler, Hannah. “Dispelling Myths: Immigration part two.” *Times News* [Burlington]. 29 April 2007.

31 St. Onge, Peter. (12/10/06.) “His Mission, Fame: He Sends Illegal Immigrants Home. *Charlotte Observer*. <http://www.charlotteobserver.com/>

32 *Ibid.*

33 Tim Sutton, Alamance County Commissioner, Personal Interview, June 2008.

34 On the U.S. Department of Homeland Security’s website, the office of ICE refers to the jail model as “JEO”(Jail Enforcement Officers) and to the Field model as “TFO” (Task Force Officers).

arrested for more serious crimes in detention facilities.³⁵ Despite the existence of two different models, however, the language of the contract outlining the immigration duties between local law enforcement agencies and ICE (known as the Memorandum of Agreement or MOA) for jurisdictions with jail models provides latitude for field activity. For example, the Alamance County MOA grants authority to trained officers to “interrogate any alien or person believed to be an alien as to his right to be or remain in the U.S.”³⁶ While the “principal place of assignment” is designated as the “Central Jail Facility,” the MOA does not impose restrictions on where authorities can investigate immigration status. In fact, police reports indicate that law enforcement agencies that claim to follow a jail model are nevertheless apprehending and interrogating individuals in the field about their immigration status, or bringing suspects to the jail on minor charges in order to check immigration status.³⁷ Given the lack of conformity to models prior to July 2009, a lack of strict parameters in the MOAs, and the fact that deportation outcomes are the same regardless of the model used, the distinction between detention and field models has not been meaningful.

35 Under federal law, unauthorized presence in the United States is a misdemeanor. CRS Report for Congress: Immigration Enforcement Within the United States. Federation of American Scientists website. Congressional Research Service, The Library of Congress. 4/06/06. <http://www.fas.org/sgp/crs/misc/RL33351.pdf>. Retrieved 9/18/09.

36 Alamance County 287 (g) Memorandum of Agreement with ICE, provided at the request of the NC-ACLU.

37 This is evident based on the high numbers of individuals deported after being apprehended for traffic infractions, such as driving without a license (more than 30% of deportations in some NC counties).

Crime and Immigration

The Relationship between Crime and Immigration

Is there a link between immigrants and criminality?

In general, the 287(g) Program in North Carolina has received broad public support. This has been due, in part, to the belief that increased immigration has contributed to rising crime rates and that the program offers law enforcement an additional tool to fight crime among the unauthorized immigrant population. Sheriffs in North Carolina have remarked on the rapidly changing demographics of their inmate population in the last few decades. As the population of the state continues to become increasingly racially and ethnically diversified, it is no surprise that the racial and ethnic make-up of the incarcerated population has changed as well. Controversy has arisen over the question of whether the rising number of racial and ethnic minorities in the jails is a result of immigration, particularly unauthorized immigration. Moreover, are immigrants (both authorized and unauthorized) more likely to commit crimes than non-immigrants?

News reports and local public officials have argued that rising rates of immigration have resulted in higher crime rates. Some have even alleged that unauthorized immigrants are inherently more deviant and, therefore more likely to commit crimes than native-born Americans due to the fact that they consciously entered or remained in the country illegally. If these arguments are valid, it makes sense that jurisdictions with the highest growth of immigrants also have the highest increases in crime.

While national empirical studies have found little evidence that immigrant status is a strong predictor of deviance or criminality, the “popular myth” of immigrants as dangerous, violent, and criminal persists.³⁸ In fact, a national study of incarceration rates comparing immigrants to native-born persons in the U.S. between 1980 and 2000 found evidence that debunks popular myths about the link between immigrants and criminal activity.³⁹ Butcher and Piehl’s study of over two million incarcerated males between the ages of 18-40 shows that 1) immigrants are 1/5 less likely to be incarcerated than the native-born population, 2) more recently arrived immigrants have much lower rates of incarceration, and 3) the longer immigrants live in the U.S., the less likely they are to be incarcerated. According to this study, the key factor driving the lower probability of incarceration for immigrants relative to native-born Americans is a selection effect. More specifically, immigrants who self-select to migrate to the U.S. are more ambitious, driven, and hard-working than the general population, thus, are less likely to be involved in criminal behavior. They are also less prone to commit crime and become incarcerated because their

38 Khashu, Anita. (April 2009). “The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties.” Washington, DC: Police Foundation.

39 Butcher, Kristin F. and Anne M. Piehl. (2007). “Why are Immigrants’ Incarceration Rates so Low? Evidence on Selective Immigration, Deterrence, and Deportation.” NBER Working Paper No. 13229. Cambridge, Massachusetts: National Bureau of Economic Research.

primary purpose for migrating is to build a better life for themselves (and their families), whether it be through employment, education, or other productive means.^{40, 41}

While the empirical studies provide little evidence of the link between immigrants and greater propensity towards crime, the popular media as well as law enforcement leaders have played a significant role in perpetuating these stereotypes and myths. In North Carolina, several high-profile tragic events involving unauthorized immigrants driving while intoxicated (DWI) received a disproportionate amount of media attention and helped to mobilize anti-immigrant activists. One case in particular, involving Scott Gardner, a well-known Gastonia high school teacher, and his family, sparked much heated debate over unauthorized immigration. Scott Gardner was killed, his wife suffered critical injuries, and his children received minor injuries when an unauthorized immigrant, Ramiro Gallegos, was driving with a blood alcohol level of 0.22 (nearly three times the legal blood alcohol concentration level in North Carolina). Gallegos was driving with a revoked license, had previous DWI convictions for which he already served jail time, was serving probation, and was an unauthorized immigrant.⁴² Rather than bringing attention to the larger social problem of drunk driving that is pervasive in all race and ethnic groups, the media attention surrounding this tragic event crystallized images of all unauthorized immigrants as dangerous, violent, and undeserving of any rights granted to citizens of the U.S. This event pitted citizens against unauthorized immigrants and mobilized action among state and local politicians as well as private citizens. Motivated by this incident, U.S. Representative Sue Myrick introduced the Scott Gardner Act (or HR 1199), a bill currently under review by Congress that would require mandatory deportation for unauthorized immigrants convicted of a DWI.⁴³

There are other examples that exemplify how singular tragic cases can lead to generalizations about a group. During a newspaper interview, Sheriff Steve Bizzell of Johnston County called Mexicans “trashy” and commented that unauthorized immigrants were “breeding like rabbits.”⁴⁴ After being publicly chastised for making sweeping derogatory statements, Bizzell apologized for his comments, explaining that he had reacted to the death of a boy living in Selma, North Carolina who was killed by an unauthorized immigrant with a record of drunk driving.⁴⁵ In a follow-up interview, he stated, “I obviously let my anger over this crime flash during the News and Observer interview.”⁴⁶

Sheriff Terry Johnson in Alamance County explained why he believed that immigrants are more prone to commit crimes than legal residents: “Their values are a lot different -- their morals -- than what we have here,” Johnson said. Johnson adds, “In Mexico, there’s nothing wrong with having sex with a 12-, 13-year-old girl ... They do a lot of drinking down in Mexico.”⁴⁷ Events like the Gardner tragedy and generalizations made about racial/ethnic minorities and immigrants by community leaders and the

40 *Ibid.*

41 For more evidence that immigration is related to lower crime rates, see Sampson, Robert. (2008). “Rethinking Crime and Immigration.” *Context* 7(1): 28-33.

42 Rickabaugh, Greg. 7/19/05. “Man Charged in Crash that Killed Father of 2.” *Charlotte Observer*. Retrieved from reprint at: <http://www.alipac.us/article-550-thread-1-0.html>

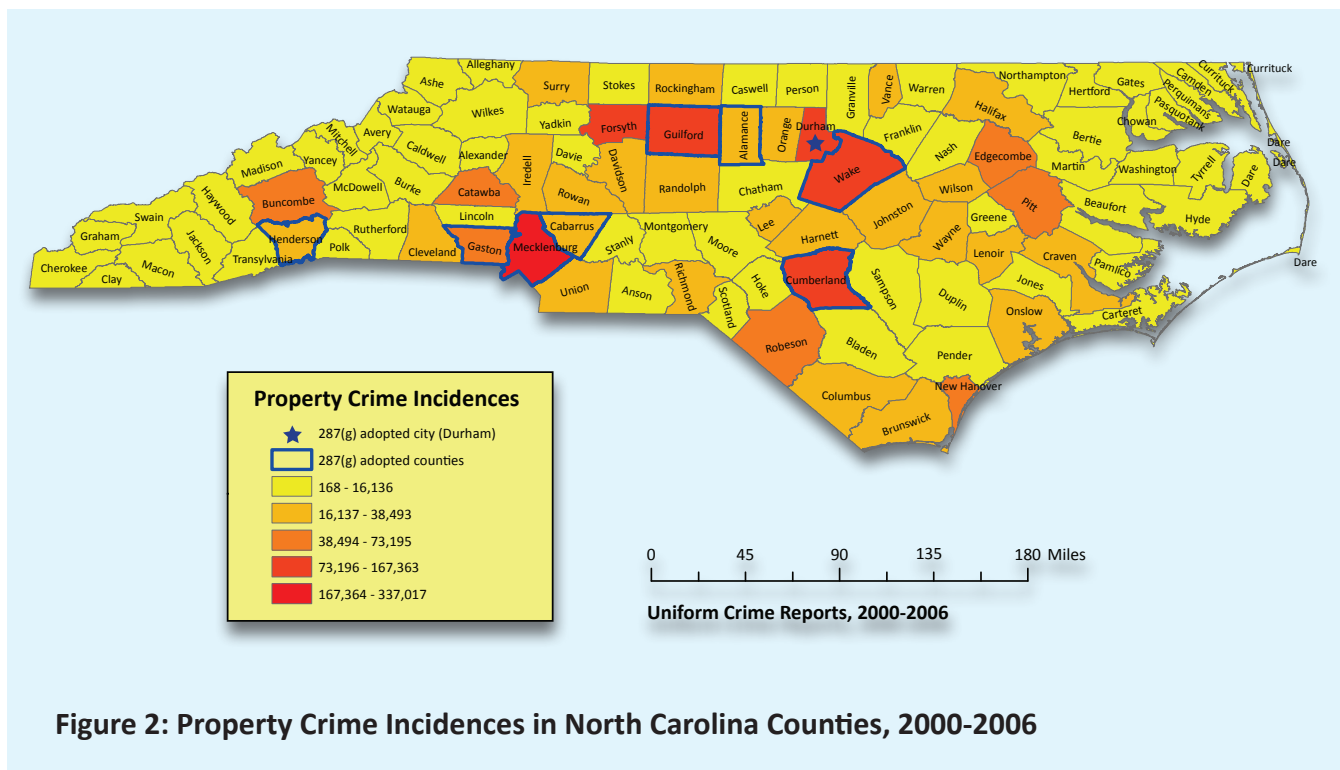
43 Available from Govtrack.us at: <http://www.govtrack.us/congress/bill.xpd?bill=h111-1199>

44 Collins, Kristin. 9/7/08. “Tolerance Wears Thin.” *News & Observer*. <http://www.newsobserver.com/news/immigration/story/1209646.html>

45 Perez, Lorenzo. September 8, 2008. “Johnston Sheriff Apologizes.” *News & Observer*. <http://www.newsobserver.com/news/johnston/story/1210712.html>

46 *Ibid.*

47 Collins, Kristin. April 22, 2007. “Sheriffs help feds deport illegal aliens.” *News & Observer*. <http://www.newsobserver.com/689/story/566759.html>.



media have a powerful effect on public perception regarding the link between crime and immigration. Often, this leads to the perpetuation of stereotypes that immigrants are more inherently deviant and have a greater propensity to commit crimes.

Are the popular fears about the link between immigration and crime in North Carolina supported by statistical analyses of recent crime data? In the sections below, we use data from a variety of secondary data sources to examine the relationship between immigration, Hispanic population, and crime (incidences and rates) in North Carolina counties. We include Hispanic population in our analyses because the majority of migrants in North Carolina in the last few decades identify as Hispanic.

Hispanic population growth in North Carolina not linked to increases in crime rates

To determine if there is any empirical evidence for the link between immigration and crime, we examine violent and property crime data from the North Carolina Uniform Crime Reports (UCR).⁴⁸ The UCR dataset provides both the total number of crime incidences and rates per 100,000 residents per North Carolina County. The data is disaggregated by violent and property crime. Violent crimes include the following: murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault. Burglary, larceny-theft, and motor vehicle theft crimes are included in the property crime classification.⁴⁹

48 NC State Bureau of Investigation, Division of Criminal Investigation. North Carolina Uniform Crime Report. <http://sbi2.jus.state.nc.us/crp/public/Default.htm>.

49 Violent crime and property crime incidences do not comprise all of the crimes committed in these counties, but are the most uniform data on crime collected across geography and time. There are some limitations to using these classifications, known as Part I offenses in the Uniform Crime Report data. These limitations are discussed in <http://www.fbi.gov/ucr/ucr.htm>.

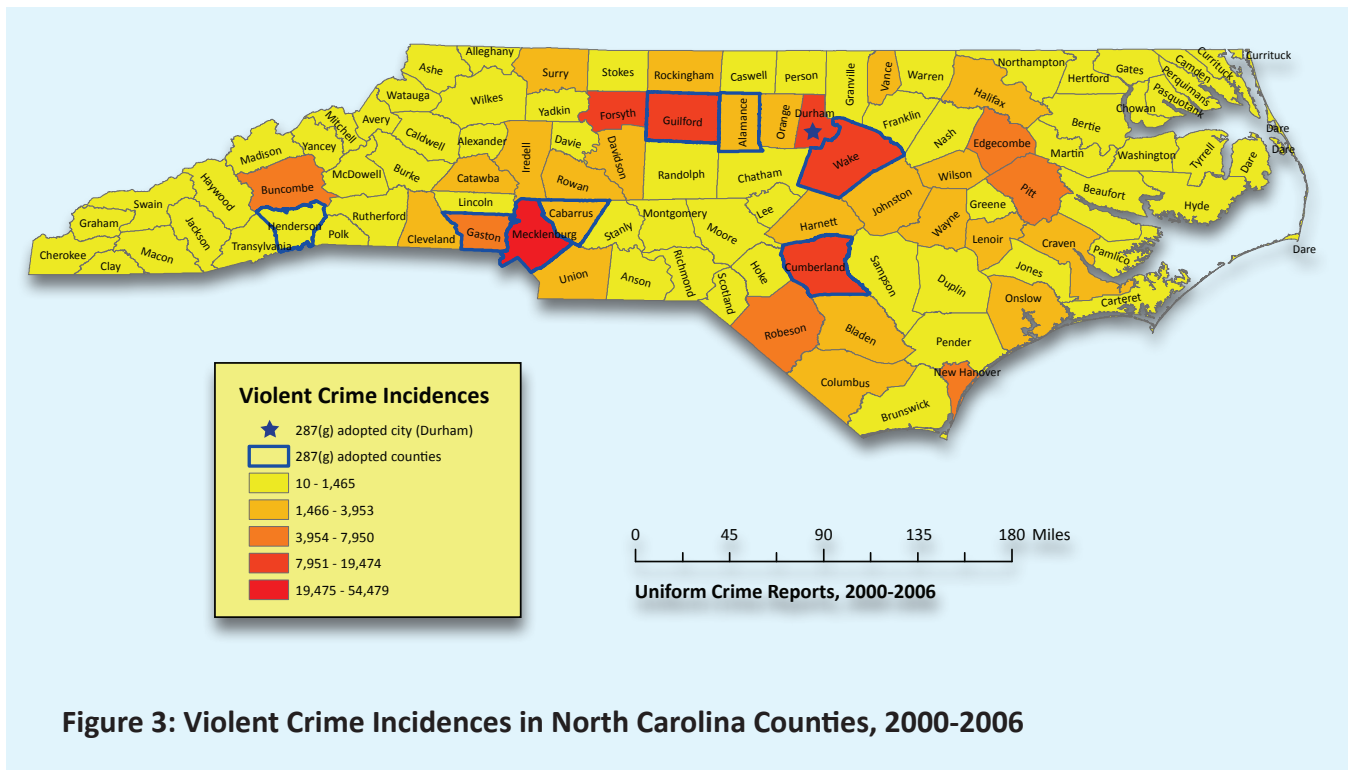


Figure 3: Violent Crime Incidences in North Carolina Counties, 2000-2006

We examine violent and property crime incidences and rates for all North Carolina counties between 2000 and 2006. This period is examined because all of the 287(g) partnerships between North Carolina jurisdictions and ICE were signed in 2006 or thereafter, thus, examining crime trends between 2000 and 2006 should provide an explanation for the need and motivation behind the 287(g) Program. The expectation is that jurisdictions adopting the 287(g) Program had greater increases in crime since they have all experienced high rates of immigration growth throughout that time period.

Figures 2 and 3 display maps of total property and violent crime incidences in North Carolina Counties between 2000 and 2006, the period leading up to the inception of the 287(g) Program in the state. Both of these maps reveal that the crime incidences are among the highest in 287(g) jurisdictions. In particular, Cumberland, Durham, Mecklenburg, and Wake counties have the greatest incidences of violent and property crime in the state.

Although 287(g) jurisdictions have high crime rates compared to other counties throughout the state, these places are also the most populous. A rank ordering of counties by population size, and property and violent crime incidences is shown in Table 1. These rankings reveal that counties that have adopted the 287(g) Program (as shaded in yellow) have crime rates that are largely proportionate to their population size. For example, the three counties with the highest crime incidences, Mecklenburg, Wake and Guilford Counties, are also the three most populous counties in the state. Cumberland and Durham counties rank fifth and sixth on total crime rate and also on population size. Alamance is ranked 14th in total crime incidences and 15th in population. Crime incidence rankings for both Cabarrus and Henderson County are slightly higher than their population ranking, suggesting that that the number of crimes committed may be a little high for their population size. For most 287(g) jurisdictions, comparing total incidences of crime to population size with other North Carolina counties shows that crime appears to be fairly proportionate to population size.

Table 1: Population 2006 and Crime Incidences 2000-2006 Rank Order, NC Counties

County	Population 2006	Population Rank	Crime 2000-06	Crime Rank	County	Population 2006	Population Rank	Crime 2000-06	Crime Rank
Mecklenburg	832,078	1	391,496	1	Duplin	52,187	51	12,601	48
Wake	791,214	2	186,047	2	Pender	47,777	52	7,713	58
Guilford	454,351	3	178,445	3	Richmond	45,814	53	18,398	52
Forsyth	330,926	4	142,176	4	Beaufort	45,712	54	11,315	53
Cumberland	306,984	5	137,562	5	Stokes	45,699	55	9,217	54
Durham	248,857	6	117,348	6	Watauga	44,138	56	9,183	56
Buncombe	222,528	7	59,185	7	McDowell	43,210	57	7,546	57
Gaston	197,579	8	70,760	8	Vance	42,980	58	23,056	55
New Hanover	186,938	9	80,674	9	Hoke	41,069	59	12,061	64
Union	171,760	10	32,608	18	Davie	39,583	60	6,094	63
Onslow	160,896	11	27,380	10	Pasquotank	39,471	61	10,895	62
Cabarrus	155,130	12	35,394	14	Yadkin	37,514	62	6,428	59
Davidson	154,494	13	32,823	11	Person	37,052	63	8,012	61
Catawba	152,648	14	49,582	12	Jackson	36,271	64	5,969	66
Johnston	150,586	15	37,294	21	Scotland	36,253	65	13,086	60
Pitt	148,167	16	60,252	13	Alexander	35,930	66	6,167	65
Iredell	145,890	17	36,106	20	Dare	33,754	67	13,115	68
Alamance	141,492	18	42,306	15	Bladen	32,369	68	10,708	67
Randolph	138,226	19	36,657	16	Macon	32,159	69	4,804	69
Rowan	135,181	20	30,333	17	Transylvania	29,658	70	4,269	70
Robeson	126,698	21	58,171	19	Montgomery	27,180	71	6,972	71
Orange	121,664	22	38,675	22	Cherokee	26,091	72	4,626	75
Wayne	112,603	23	39,010	23	Anson	25,314	73	7,572	73
Harnett	105,301	24	31,338	27	Ashe	25,258	74	3,035	74
Henderson	98,279	25	18,533	28	Martin	23,886	75	7,995	72
Cleveland	97,535	26	33,233	24	Currituck	23,446	76	4,211	84
Craven	96,107	27	26,013	26	Caswell	23,390	77	3,522	76
Brunswick	93,874	28	24,378	34	Hertford	23,169	78	7,475	77
Rockingham	91,981	29	27,085	25	Northampton	20,828	79	3,634	78
Nash	91,269	30	8,837	30	Greene	20,250	80	4,673	82
Burke	88,659	31	17,083	29	Madison	20,085	81	1,125	81
Moore	82,358	32	16,722	32	Warren	19,456	82	3,996	79
Caldwell	78,994	33	17,348	31	Polk	18,909	83	2,526	83
Wilson	75,659	34	24,575	33	Bertie	18,657	84	3,333	80
Surry	71,979	35	18,705	35	Yancey	18,107	85	822	85
Lincoln	70,964	36	12,992	37	Avery	17,979	86	1,605	86
Wilkes	66,470	37	12,365	36	Mitchell	15,665	87	187	87
Carteret	63,202	38	14,196	41	Chowan	14,521	88	3,354	88
Rutherford	62,909	39	15,428	38	Swain	13,472	89	2,080	90
Sampson	62,800	40	14,758	39	Washington	13,002	90	2,265	89
Chatham	59,561	41	11,212	47	Pamlico	12,529	91	1,269	91
Stanly	58,563	42	14,445	42	Perquimans	12,106	92	1,811	92
Lenoir	57,009	43	25,368	40	Gates	11,402	93	898	94
Lee	56,729	44	19,651	49	Alleghany	10,799	94	360	93
Haywood	56,093	45	11,063	46	Jones	10,012	95	1,463	95
Franklin	55,315	46	8,904	51	Clay	9,997	96	917	96
Halifax	55,169	47	19,444	43	Camden	9,188	97	367	98
Granville	54,017	48	13,974	50	Graham	7,932	98	382	97
Columbus	53,969	49	21,518	45	Hyde	5,237	99	245	99
Edgecombe	53,106	50	49,209	44	Tyrrell	4,115	100	537	100

Increasing crime rates, particularly among unauthorized immigrants, has been reported as a major concern among jurisdictions adopting the 287(g) Program. Sheriff Rick Davis of Henderson County, in an interview, stated, “the reality is that crime accompanies any large-scale illegal immigration.”⁵⁰ However, when average annual changes in crime incidences between 2000 and 2006 were examined (see Table 2) for all North Carolina counties, jurisdictions adopting the 287(g) Program did not have the highest average annual increase in crime. Among the 287(g) counties, Cabarrus County ranks highest, in 18th place among all North Carolina counties, with a 5.4% average annual increase in crime. Mecklenburg County, which adopted the first 287(g) partnership, ranked 42nd, with an average annual increase in crime of 2.6%. Three counties, Durham,⁵¹ Gaston, and Wake, actually ranked at the very bottom, showing negative annual changes in crime. If crime detention and prevention is the intent of the 287(g) Program, it does not appear that it is targeting those counties that have experienced the greatest increases in crime between 2000 and 2006.

Disaggregating violent and property crime and extending the time from 1993 to 2008 reveals more evidence that there have not been dramatic increases in crime in 287(g) jurisdictions, as reported by proponents of the 287(g) Program. Figure 4 reveals trends in property crime for the eight local jurisdictions that adopted the 287(g) Program (seven counties and the city of Durham). The only jurisdiction that experienced a noticeable increase in property crime was Mecklenburg. Between 2002 and 2007, there was a steady rise in property crime incidences in Mecklenburg County. The annual number of property crimes in 2006 increased to 53,047 from 44,250 in 2003 (a 20% difference). Besides Mecklenburg County, the trends in property crime during this period are remarkably stable for jurisdictions adopting the 287(g) Program.

Trends in annual violent crime between 1993 and 2008 in 287(g) jurisdictions, as seen in Figure 5, reveal either stable or declining rates of violent crime. Surprisingly, Mecklenburg County, which was a pioneer of the 287(g) movement in the state, actually had the most dramatic reductions in number of violent crimes throughout the 14 years leading up to the adoption of the 287(g) Program in 2006. Mecklenburg’s violent crime was at the highest point in 1993 (at 10,340 incidences) and the lowest in 2003 (at 7,424 incidences). Interestingly, the most rapid increase in immigration and Hispanic immigration to Mecklenburg County occurred during the 1990s, yet annual rates of violent crime were highest in 1993, when there were significantly fewer immigrants, and lowest in 2003 when many more immigrants had settled in the county. These crime trends lend little support to the contention that rising rates of immigration are associated with increases in violent crime in North Carolina counties.

While the UCR crime data show that violent and property crime in 287(g) jurisdictions have remained fairly consistent, and occasionally decreasing over time, the data does not disaggregate crime incidences by immigration status. Therefore, there is no way to determine from this data whether there have been disproportionate increases in crime incidences among immigrants or unauthorized immigrants. Requests for this type of data from local law enforcement agencies in North Carolina have revealed that before the 287(g) Program, there was no systematic tracking of the number of unauthorized immigrants that were arrested or imprisoned. Arrest data available by individual law enforcement agencies or daily jail records are unreliable in their categorizations of race and ethnicity. Often times, Hispanics are classified as Whites or the racial/ethnic category is left unclassified. Consequently, any

50 Caldwell, Jr., Edmond W. (2009). “The North Carolina Sheriffs’ Association’s Perspective on the 287(g) Jail Enforcement Model.” *Popular Government* 74(3): 2-18, p 4.

51 We use Durham county statistics to compare across other jurisdictions even though it is the city’s police department that has implemented the program, not the Sheriff’s office.

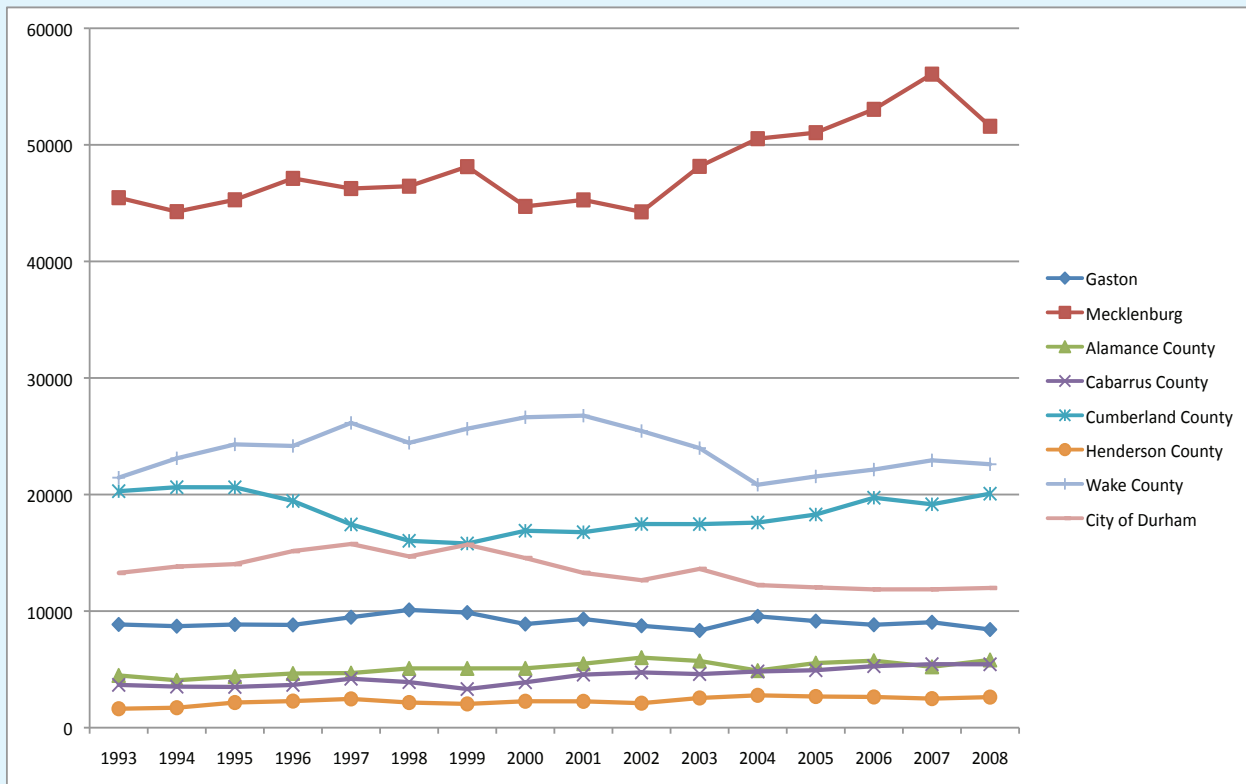


Figure 4: Property Crime Incidences, 287(g) Jurisdictions, 1993-2008

assertion that links immigrants or Hispanics to increasing crime rates cannot be validated by empirical data. Although some law enforcement officials in North Carolina have stated such, to the best of our knowledge, accurate data to validate these claims do not exist. Emerging data from the 287(g) Program shows that estimates from sheriffs prior to implementation of the program were grossly overestimated. For example, in December of 2006, newspaper articles cited that the staff of the Mecklenburg County Sheriff’s Office estimated that unauthorized immigrants comprised 15% of the jail’s inmates.⁵² In the first year of operation in Mecklenburg County, the 287(g) Program identified 2,200 unauthorized immigrants out of 45,000 individuals arrested, which equates to 4.9%,⁵³ a much lower proportion than projected by the Sheriff’s Office. Inaccurate estimates provided by law enforcement officials regarding unauthorized immigrants and crime have perpetuated and reinforced stereotypes and myths about the criminal tendencies of immigrants and racial/ethnic minorities.

52 St. Onge, Peter. (12/10/06.) “His Mission, Fame: He Sends Illegal Immigrants Home.” *Charlotte Observer*. <http://www.charlotteobserver.com/>

53 Caldwell, Jr., Edmond W. (2009). “The North Carolina Sheriffs’ Association’s Perspective on the 287(g) Jail Enforcement Model.” *Popular Government* 74(3): 2-18, p 11.

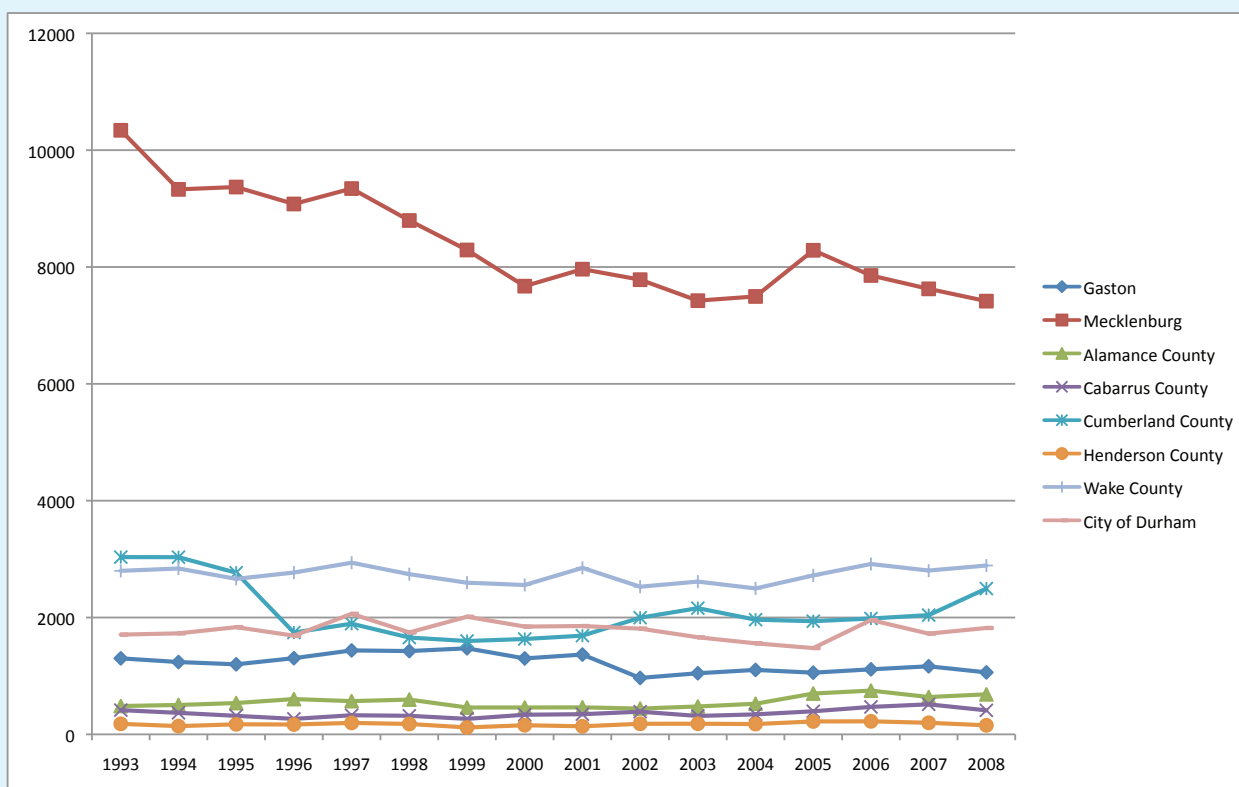


Figure 5: Violent Crime Incidences, 287(g) Jurisdictions, 1993-2008

Radical Demographic Change and the Adoption of the 287(g) Program

While crime rates have remained fairly stable overall since 1993 in the jurisdictions adopting the 287(g) Program, these places have experienced radical demographic changes. Relative to other counties throughout the state, 287(g)-adopted jurisdictions have a higher concentration of immigrants, as shown in Figure 6. Durham, Mecklenburg, and Wake Counties are among the counties with the largest proportion of foreign-born residents in 2000.

As discussed previously, Hispanics make up the majority of immigrants in these counties. Therefore, the jurisdictions that have the greatest percentage of foreign-born residents also have the highest percentage of Hispanics, as seen in Figure 7. By 2006, all of the 287(g) jurisdictions have between 5.0-12.0% of their population comprised of Hispanics.

Table 3 reveals changes in overall population, race, ethnicity, and immigration (as measured by foreign-born status) for jurisdictions that adopted the 287(g) Program. Between 1990 and 2000, these jurisdictions experienced robust population growth, overall. Wake County was the fastest growing jurisdiction, with a population increase of 43%. The City of Durham and Mecklenburg County were not far behind, with growth in population of 37% and 36%, respectively. Gaston County had the slowest rate

Table 2: Annual Change in Crime Incidences, North Carolina Counties, 2000-2006, Rank Ordered

County	% Change 2000-01	% Change 2001-02	% Change 2002-03	% Change 2003-04	% Change 2005-06	% Change 2006-07	Mean Annual Change 2000-06	Rank Order
Mitchell*	178.6%	-48.7%	-60.0%	500.0%	-89.6%	960.0%	240.0%	1
Lincoln	22.6%	-25.4%	-1.6%	-55.1%	-14.0%	250.7%	29.5%	2
Alleghany	-32.2%	207.5%	-81.3%	21.7%	57.1%	-2.3%	28.4%	3
Madison	85.7%	10.8%	0.7%	4.8%	55.3%	5.1%	27.1%	4
Onslow	-9.2%	-16.6%	-65.9%	-24.1%	234.4%	43.4%	27.0%	5
Jones	48.5%	25.5%	-17.7%	37.3%	62.2%	-18.2%	22.9%	6
Jackson	5.2%	-37.4%	114.4%	49.8%	-5.9%	3.7%	21.6%	7
Swain	13.3%	2.0%	45.5%	11.7%	20.0%	29.5%	20.3%	8
Yancey	20.0%	-9.8%	13.0%	46.2%	-7.2%	3.5%	11.0%	9
Avery	61.3%	-16.7%	28.4%	-14.1%	-4.6%	3.1%	9.5%	10
Polk	21.8%	42.9%	-10.4%	5.0%	1.3%	-4.7%	9.3%	11
Clay	35.3%	-2.2%	-14.8%	8.7%	14.4%	11.2%	8.8%	12
Davie	17.5%	-18.0%	8.6%	37.5%	-8.8%	11.7%	8.1%	13
Perquimans	-38.3%	30.1%	31.0%	15.0%	2.9%	-1.0%	6.6%	14
Pender	24.9%	4.1%	-6.9%	-7.8%	11.6%	13.3%	6.5%	15
Bertie	-26.0%	9.0%	-32.0%	106.4%	-7.2%	-12.6%	6.3%	16
Montgomery	32.4%	-22.6%	5.3%	-4.7%	-2.2%	24.8%	5.5%	17
Cabarrus	15.7%	4.8%	-4.2%	5.1%	3.1%	7.9%	5.4%	18
Union	-14.8%	9.7%	-17.1%	39.0%	2.9%	12.2%	5.3%	19
Ashe	7.4%	6.6%	3.1%	19.8%	-15.0%	9.6%	5.3%	20
Brunswick	9.5%	6.5%	-7.8%	7.2%	10.9%	5.1%	5.2%	21
Caswell	2.8%	-3.0%	7.0%	-5.5%	23.8%	5.9%	5.2%	22
Tyrrell	27.1%	41.3%	-30.2%	4.1%	1.3%	-12.8%	5.1%	23
Pasquotank	3.0%	14.6%	5.5%	7.4%	2.0%	-3.8%	4.8%	24
Yadkin	1.3%	-5.2%	13.1%	3.4%	3.5%	12.2%	4.7%	25
Stokes	15.5%	11.8%	8.5%	-5.0%	-2.9%	-0.4%	4.6%	26
Warren	8.6%	26.3%	-20.4%	3.2%	10.7%	-1.1%	4.5%	27
Currituck	29.7%	-4.7%	22.5%	-4.1%	-6.7%	-10.2%	4.4%	28
Lee	52.2%	4.7%	-10.0%	-15.5%	-10.6%	5.4%	4.4%	29
Davidson	0.7%	-0.4%	15.3%	-2.4%	11.5%	1.6%	4.4%	30
Northampton	-32.6%	17.5%	40.6%	27.6%	-5.0%	-22.3%	4.3%	31
Person	-15.8%	9.9%	23.8%	5.6%	-8.8%	10.4%	4.2%	32
McDowell	-5.3%	12.0%	6.8%	5.2%	7.5%	-2.4%	4.0%	33
Washington	5.9%	-6.3%	-50.4%	81.8%	30.3%	-37.6%	3.9%	34
Macon	8.1%	2.9%	14.5%	-10.4%	0.1%	7.4%	3.8%	35
Haywood	-9.8%	-0.4%	11.8%	11.1%	4.5%	5.4%	3.8%	36
Rockingham	-9.8%	16.7%	6.9%	0.9%	-1.0%	6.0%	3.3%	37
Henderson	-1.1%	-4.8%	19.6%	8.1%	-1.9%	-1.3%	3.1%	38
Alamance	7.2%	8.5%	-3.9%	-12.5%	15.1%	4.1%	3.1%	39
Iredell	5.1%	1.9%	-5.4%	0.9%	10.5%	4.8%	3.0%	40
Cumberland	-0.4%	5.5%	0.8%	-0.3%	3.4%	7.4%	2.7%	41
Mecklenburg	1.6%	-2.3%	6.8%	4.4%	2.3%	2.6%	2.6%	42
Craven	18.3%	-1.6%	-11.8%	14.8%	-1.7%	-2.9%	2.5%	43
Richmond	3.9%	-16.1%	1.8%	-0.2%	7.1%	18.0%	2.4%	44
Sampson	1.5%	-14.1%	-34.1%	64.1%	4.2%	-7.6%	2.3%	45
Rowan	-2.3%	-7.9%	4.8%	14.6%	3.0%	0.0%	2.0%	46
Granville	6.7%	-6.0%	7.2%	-6.4%	7.2%	3.1%	2.0%	47
Bladen	-0.7%	6.1%	-5.5%	3.6%	-16.2%	23.5%	1.8%	48
Lenoir	17.5%	6.2%	-6.7%	5.2%	-0.3%	-12.2%	1.6%	49
Caldwell	4.5%	-21.6%	7.4%	2.0%	14.8%	1.8%	1.5%	50

* The number of crimes in the county are very low, therefore caution should be taken when interpreting rates of crime change. Sources: NC State Bureau of Investigation, UCR Data, 2000-2006

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County	% Change 2000-01	% Change 2001-02	% Change 2002-03	% Change 2003-04	% Change 2005-06	% Change 2006-2007	Mean Annual Change 2000-06	Rank Order
Halifax	-3.6%	0.8%	1.9%	4.8%	5.4%	-1.8%	1.3%	51
Edgecombe	-2.4%	2.4%	2.5%	-6.6%	-1.6%	13.1%	1.2%	52
Chatham	18.0%	-0.2%	8.0%	-21.8%	-10.7%	12.7%	1.0%	53
Nash	17.8%	-12.9%	9.5%	-4.5%	2.7%	-7.2%	0.9%	54
Moore	1.8%	11.1%	-10.2%	-10.4%	8.9%	3.4%	0.8%	55
Anson	-2.3%	0.8%	-4.6%	16.2%	5.6%	-11.8%	0.7%	56
Wilkes	-4.9%	-3.9%	-1.3%	18.9%	0.2%	-5.3%	0.6%	57
Catawba	3.2%	-3.5%	3.9%	-1.9%	11.4%	-10.7%	0.4%	58
Carteret	-2.9%	0.5%	-5.6%	10.1%	-6.6%	6.5%	0.3%	59
Guilford	6.6%	-7.3%	1.6%	-1.4%	2.1%	0.4%	0.3%	60
Vance	7.6%	9.6%	2.9%	-13.7%	-5.0%	-0.2%	0.2%	61
Randolph	1.0%	-2.0%	9.0%	-7.8%	1.0%	0.0%	0.2%	62
Surry	-3.9%	6.3%	-0.7%	-0.5%	-1.0%	0.4%	0.1%	63
Alexander	0.5%	-12.0%	12.7%	-9.6%	8.3%	0.6%	0.1%	64
Beaufort	-2.8%	14.0%	4.7%	-11.2%	-5.2%	1.0%	0.1%	65
Columbus	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	66
Gaston	4.9%	-9.2%	-3.3%	13.6%	-4.3%	-2.5%	-0.1%	67
New Hanover	3.1%	4.7%	-3.5%	-1.4%	-4.3%	-1.2%	-0.4%	68
Transylvania	-8.6%	-9.9%	25.0%	4.6%	-14.0%	0.2%	-0.5%	69
Rutherford	7.2%	-16.2%	4.2%	23.7%	-11.6%	-10.8%	-0.6%	70
Robeson	-6.4%	-15.1%	6.7%	15.4%	2.3%	-6.7%	-0.6%	71
Hoke	4.6%	0.6%	-0.8%	-1.0%	-10.5%	2.8%	-0.7%	72
Buncombe	-3.9%	-0.3%	5.1%	5.0%	-0.8%	-9.8%	-0.8%	73
Johnston	0.0%	2.0%	-11.0%	-6.3%	-3.1%	11.4%	-1.2%	74
Wayne	-8.2%	7.3%	-5.3%	1.4%	-1.7%	-1.0%	-1.2%	75
Orange	12.9%	-9.7%	-0.1%	-2.7%	-13.6%	5.8%	-1.2%	76
Greene	9.0%	2.3%	-4.3%	-13.3%	-24.5%	23.2%	-1.3%	77
Wilson	-6.2%	2.6%	-8.0%	-27.3%	16.6%	13.0%	-1.5%	78
Forsyth	-1.9%	-8.4%	7.5%	-11.3%	-2.6%	7.2%	-1.6%	79
Dare	2.5%	2.9%	-16.3%	-5.1%	11.4%	-5.8%	-1.7%	80
Pitt	2.0%	-12.4%	3.0%	-7.6%	-4.2%	8.3%	-1.8%	81
Burke	6.0%	-9.2%	-0.5%	-3.3%	10.9%	-16.6%	-2.1%	82
Wake	1.5%	-5.5%	-4.9%	-12.2%	4.0%	3.2%	-2.3%	83
Durham	-5.2%	-4.7%	4.3%	-9.6%	-0.7%	1.8%	-2.3%	84
Harnett	3.3%	6.7%	-15.2%	-6.8%	2.2%	-4.4%	-2.4%	85
Franklin	-8.0%	2.1%	7.6%	-6.3%	-5.6%	-5.0%	-2.6%	86
Duplin	5.8%	-14.6%	4.3%	5.8%	-7.4%	-10.2%	-2.7%	87
Watauga	-16.1%	7.3%	0.7%	-7.5%	-4.8%	2.1%	-3.1%	88
Scotland	11.1%	-9.6%	1.5%	-1.3%	-6.8%	-15.8%	-3.5%	89
Chowan	1.0%	1.7%	0.2%	-18.8%	-9.9%	4.3%	-3.6%	90
Martin	5.8%	-14.8%	7.5%	-21.5%	33.9%	-33.2%	-3.7%	91
Hertford	-7.3%	3.8%	-13.2%	22.2%	-0.8%	-27.7%	-3.8%	92
Stanly	3.3%	-7.7%	-19.9%	-5.9%	-9.5%	7.0%	-5.4%	93
Cleveland	-0.4%	-11.2%	2.8%	-5.3%	-11.4%	-9.8%	-5.9%	94
Gates	6.3%	-14.4%	-14.5%	51.8%	-12.4%	-73.8%	-9.5%	95
Cherokee	22.8%	-6.0%	0.5%	1.7%	-6.1%	-77.3%	-10.7%	96
Camden	-94.0%	N/A	N/A	120.9%	-34.7%	25.8%	N/A	97
Graham	-22.4%	N/A	N/A	N/A	N/A	N/A	N/A	98
Hyde	32.6%	-35.1%	-24.3%	82.1%	-43.1%	N/A	N/A	99
Pamlico	25.6%	-14.7%	10.2%	-7.6%	-61.7%	N/A	N/A	100

State								
North Carolina	1.7%	-38.9%	-0.9%	-0.3%	2.0%	-59.6%	-16.0%	

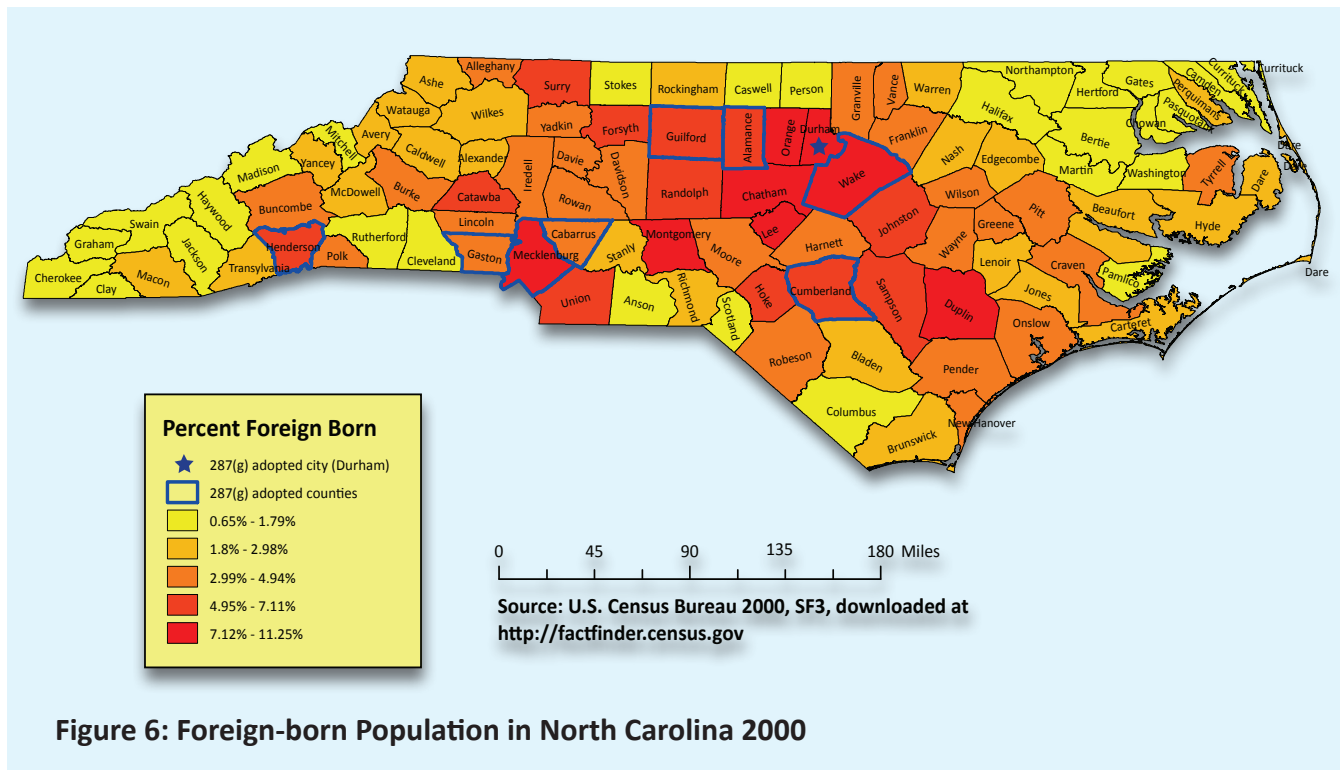


Figure 6: Foreign-born Population in North Carolina 2000

of population growth at 8.7% during this period. With the exception of Cumberland County,⁵⁴ population rates continue to increase in 287(g) jurisdictions between 2000 and 2006.

Of particular significance are dramatic demographic changes occurring in each of these jurisdictions. In all of the jurisdictions, there have been substantial increases in the immigrant and Hispanic populations and to a lesser degree, fast growth in the Asian population. In Cabarrus County, the Hispanic population increased a staggering 1355.6% in the 1990s. By contrast, the non-Hispanic population only increased 26.5% during that same time period. When race is considered, the White population increased 25.2%, Blacks 23.3%, and Asians 129.8%. It must be noted that the large percentage increases are a result of the very low numbers of Hispanics and Asians residing in these jurisdictions in 1990. The shift from Hispanics being a population that was barely noticeable to a sizeable constituent, has sparked anti-growth and sometimes, anti-immigration sentiments from community members.

With the exception of Cumberland County, between 2000 and 2006 the Hispanic population grew from 58% to 92% in 287(g) jurisdictions. While these percentages are lower than growth between 1990 and 2000, the sheer number of Hispanics settling between 2000 and 2006 in these jurisdictions nearly doubled their overall size. For example, Mecklenburg had 44,954 Hispanic residents living in the county in 2000 and added an additional 36,288 Hispanics in the next six years. In addition to these racial and ethnic changes, more immigrants have also settled in 287(g) jurisdictions. In the decade of the 1990s, the foreign-born population increase ranged from a low of 50.7% in Cumberland County to a high of 607.8% in Alamance County among the 287(g) jurisdictions.

54 Cumberland County is home to Fort Bragg, where military personnel are stationed. The population fluctuations in the county may be a result of military deployment and therefore demographic trends may be significantly different during periods when troops are deployed.

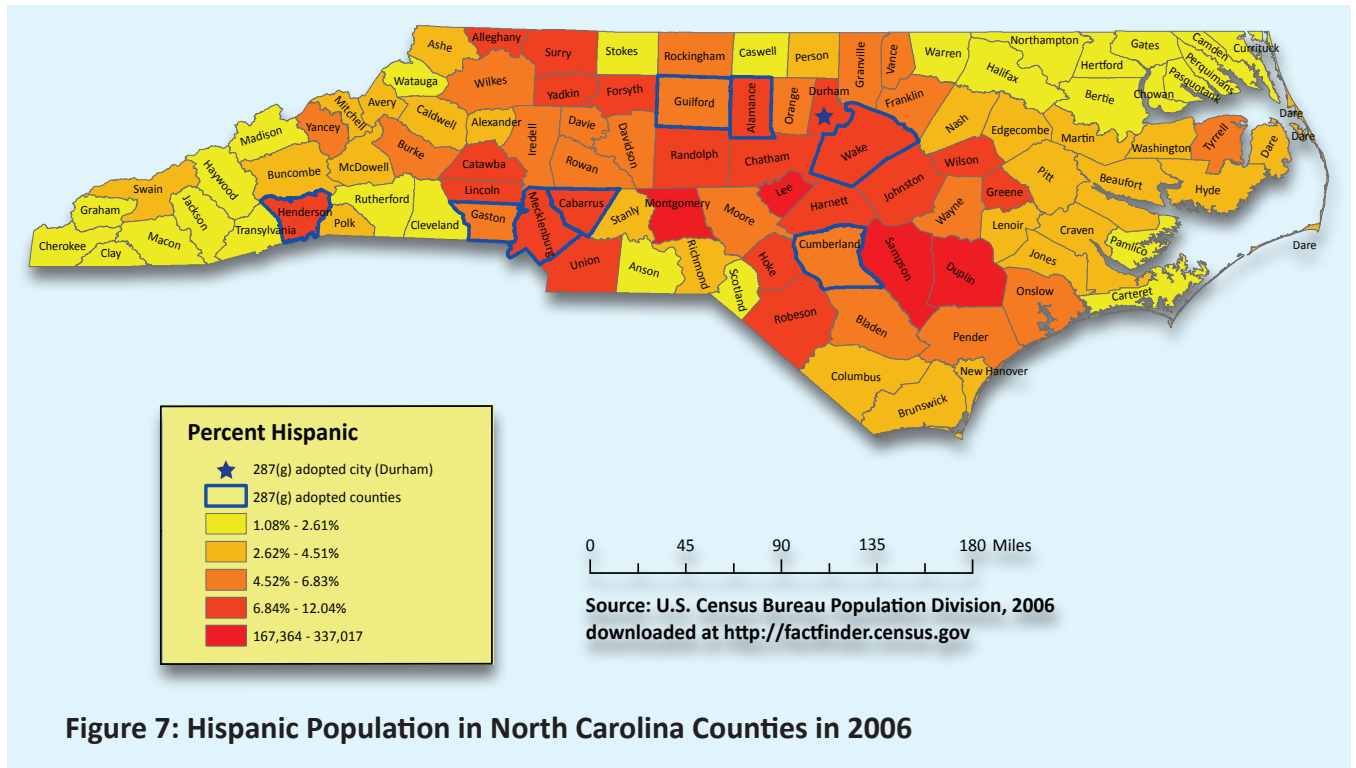


Figure 7: Hispanic Population in North Carolina Counties in 2006

Taking into consideration the crime and demographic data, what appears to be happening in 287(g) jurisdictions is that there is a misperception about increased crime among immigrants. The data show that crime rates have remained remarkably steady over time leading up to the adoption of the 287(g) Program in these jurisdictions, even in the face of population growth and demographic change, including substantial increases in the immigrant and Hispanic populations. These demographic changes have most likely resulted in a shift in the racial and ethnic make-up of the inmate population, creating a perception that immigration is causing an increase in crime. What may be occurring in these jurisdictions is that the racial and ethnic make-up of community members and jail in-mates is becoming much different than the past, even among native U.S.-born population. Consequently, the main factors driving local responses and local immigration policies may be misperceptions about rising crime rates as well as fear and anxiety over the changing racial and ethnic face of community members, but not actual crime rates.

Table 3: Population Demographics, 287(g) Program Participating Jurisdictions in North Carolina

Alamance County	1990	2000	% Change 1990-2000	2006	% Change 2000-2006
Total Population	108,213	130,800	20.9%	141,492	8.2%
Race					
White	86,130	94,679	9.9%	97,715	3.2%
African-American	20,767	24,338	17.2%	26,031	7.0%
Asian	237	1,153	386.5%	1,579	36.9%
Other	357	1,871	424.1%	3,450	84.4%
Hispanic-Origin					
Hispanic	722	8,759	1113.2%	14,442	64.9%
Non-Hispanic	107,848	122,041	13.2%	127,050	4.1%
Foreign-Born Population	1,170	8,281	607.8%	***	***
Cabarrus County	1990	2000	% Change 1990-2000	2006	% Change 2000-2006
Total Population	98,935	131,063	32.5%	155,130	18.4%
Race					
White	84,821	106,182	25.2%	117,197	10.4%
African-American	12,802	15,790	23.3%	21,623	36.9%
Asian	437	1,003	129.5%	2,104	109.8%
Other	420	1,465	248.8%	3,920	167.6%
Hispanic-Origin					
Hispanic	455	6,623	1355.6%	12,246	84.9%
Non-Hispanic	98,480	124,440	26.4%	142,884	14.8%
Foreign-Born Population	926	6,120	560.9%	***	***
Cumberland County	1990	2000	% Change 1990-2000	2006	% Change 2000-2006
Total Population	274,566	302,963	10.3%	306,984	1.3%
Race					
White	166,023	159,127	-4.2%	160,058	0.6%
African-American	86,163	104,363	21.1%	108,682	4.1%
Asian	5,264	6,014	14.2%	6,068	0.9%
Other	4,714	12,822	172.0%	24,798	93.4%
Hispanic-Origin					
Hispanic	12,402	20,637	66.4%	19,777	-4.2%
Non-Hispanic	262,164	282,326	7.7%	287,207	1.7%
Foreign-Born Population	10,566	15,925	50.7%	***	***
City of Durham	1990	2000	% Change 1990-2000	2006	% Change 2000-2006
Total Population	136,594	187,183	37.0%	210,561	12.5%
Race					
White	69,564	79,346	14.1%	80,189	1.1%
African-American	62,221	81,157	30.4%	83,170	2.5%
Asian	2,676	6,509	143.2%	8,916	37.0%
Other	420	4,249	911.7%	3,720	-12.4%
Hispanic-Origin					
Hispanic	1,713	15,922	829.5%	25,209	58.3%
Non-Hispanic	134,881	171,261	27.0%	175,995	2.8%
Foreign-Born Population	5,205	22,544	333.1%	***	***

Gaston County	1990	2000	% Change 1990-2000	2006	% Change 2000-2006
Total Population	175,093	190,365	8.7%	197,579	3.8%
Race					
White	150,410	155,254	3.2%	155,419	0.1%
African-American	22,441	25,526	13.7%	28,022	9.8%
Asian	780	1,501	92.4%	2,094	39.5%
Other	500	2,564	412.8%	4,458	73.9%
Hispanic-Origin					
Hispanic	962	5,520	473.8%	9,815	77.8%
Non-Hispanic	174,131	184,845	6.2%	187,764	1.6%
Foreign-Born Population	1,560	6,315	304.8%	***	***
Henderson County	1990	2000	% Change 1990-2000	2006	% Change 2000-2006
Total Population	69,285	89,173	28.7%	98,279	10.2%
Race					
White	65,957	80,032	21.3%	85,660	7.0%
African-American	2,205	2,514	14.0%	3,080	22.5%
Asian	292	435	49.0%	737	69.4%
Other	183	1,310	615.8%	2,056	56.9%
Hispanic-Origin					
Hispanic	648	4,882	653.4%	7,774	59.2%
Non-Hispanic	68,637	84,291	22.8%	90,505	7.4%
Foreign-Born Population	1,547	5,295	242.3%	***	***
Mecklenburg County	1990	2000	% Change 1990-2000	2006	% Change 2000-2006
Total Population	511,433	695,454	36.0%	832,078	19.6%
Race					
White	360,995	425,279	17.8%	468,641	10.2%
African-American	134,140	191,352	42.7%	240,061	25.5%
Asian	7,982	20,669	158.9%	30,970	49.8%
Other	2,265	13,200	482.8%	26,306	99.3%
Hispanic-Origin					
Hispanic	6,051	44,954	642.9%	79,253	76.3%
Non-Hispanic	505,382	650,500	28.7%	752,825	15.7%
Foreign-Born Population	17,875	68,349	282.4%	104,789	53.3%
Wake County	1990	2000	% Change 1990-2000	2006	% Change 2000-2006
Total Population	423,380	627,846	48.3%	791,214	26.0%
Race					
White	321,714	438,938	36.4%	523,380	19.2%
African-American	87,359	122,056	39.7%	158,775	30.1%
Asian	8,227	20,688	151.5%	33,596	62.4%
Other	1,186	12,029	914.2%	26,804	122.8%
Hispanic-Origin					
Hispanic	4,894	34,135	597.5%	62,061	81.8%
Non-Hispanic	418,486	593,711	41.9%	729,153	22.8%
Foreign-Born Population	16,545	60,602	266.3%	***	***

Is immigration or Hispanic growth associated with increasing crime? A statistical test

To further test the hypothesis that immigration or Hispanic population levels are positively associated with crime rates, we employed ordinary least squares (OLS) regression techniques. To do so, we tested two models predicting property crime rates and violent crime rates for all North Carolina counties between 2000-2006. The dependent variables are measured as rates of property and violent crime per 100,000 residents for each county in North Carolina summed for the seven-year period.⁵⁵

The independent variables included in the models consist of variables that are typically associated with crime, as found in the academic literature.⁵⁶ These variables measure physical and population size, population growth, urbanization, socio-demographic characteristics, unemployment rate, and rate of homeownership for the period between 1990-2000.⁵⁷ For a list and description of both dependent and independent variables, see Table 4. We also include our hypothesized variables relating to immigration and Hispanic population. These variables include: percent foreign-born population in 1990, change in foreign-born population in 1990-2000, percent Hispanic population 1990, and Hispanic population change 1990-2000. We test whether there is a positive relationship between these variables and crime rates in North Carolina counties. In other words, if immigration or Hispanic population growth increases, do crime rates also increase, controlling for a variety of other factors?

The results for the OLS regression analyses are found in Table 5. The predictors of property crime rates are examined in Model 1 and the predictors of violent crime rates are examined in Model 2. In general, the results indicate that there is no statistical association between the proportion of immigrants or Hispanics in a county and the rates of property or violent crime. There is also no evidence that links increases in immigration or Hispanic population growth to property or violent crime rates.

The variables that statistically predict increases in property crime include: greater population change, larger county size, higher proportion of population living in urban area, and higher unemployment rate. Variables that are associated with decreases in property crime are more males per 100 females and greater net domestic migration. These results indicate that faster growth, urbanization, gender composition, and economic distress (as measured by unemployment) are better predictors of property crime rates than immigration or racial/ethnic change in North Carolina counties.

As shown in Model 2, Table 5, several variables that are significant predictors of property crime are also significant in predicting violent crime: population change, proportion of population living in urban area, and males per 100 females. Other factors that are statistically correlated with increased rates of violent crime include larger population sizes and higher rates of poverty. The results shown in Model 2 indicate that there is no evidence that immigrant or Hispanic population growth contribute to increases in violent crime in North Carolina counties.

These statistical tests allow us to compare the relative effects of a variety of factors that may contribute to crime rates in North Carolina counties. The results provide evidence that there is no association between the proportion or rate of change in immigration and Hispanic populations in North Carolina counties and crime rates. Rather, there are other explanatory variables relating to general

55 Using crime rates instead of incidences controls for differences in population size of counties.

56 For example, see Sampson, Robert, Stephen Raudenbush, and Felton Earls. 1997. "Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy." *Science* 277(5328): 918-924.

57 There were a number of variables excluded from the analyses, such as education levels and population density, due to multicollinearity with other variables in the model.

population growth, urbanization, gender composition and economic distress that are better predictors of crime rates. These results suggest that focusing on immigrants or Hispanics as a means to reduce crime may deter from targeting other factors that have greater potential for reducing property and violent crime.

Table 4: Description of Variables in OLS Regression Analyses

	Definition	***	Data Source
Dependent Variables			
Property Crime Rate 2000-2006	Property Crime Rate per 100,000 residents 2000-2006 (sum)		Uniform Crime Reporting Program
Violent Crime Rate 2000-2006	Violent Crime Rate per 100,000 residents 2000-2006 (sum)		Uniform Crime Reporting Program
Independent Variables			
Population 1990	Population Size in 1990	+	City & County Databook 2007
Population Change 1990-2000 (%)	Percent Population Change 1990-2000	+	City & County Databook 2007
County Size (Area Square Mile)	Area per Square Mile	?	City & County Databook 2007
Urban Population 1990 (%)	Percent of Population Living in Urban Area 1990	+	City & County Databook 2007
Urban Population Change 1990-2000 (%)	Percent Change in Population Living in Urban Area 1990-2000	+	City & County Databook 2007
Black Population 1990 (%)	Percent of Population Classified as Black	+	City & County Databook 2007
Black Population Change 1990-2000 (%)	Percent Black Population Change 1990-2000	+	City & County Databook 2007
Age under 25 years 2005 (% of population)	Percent of Population Under 25 Years of Age in 2005	+	City & County Databook 2007
Males per 100 Females	Number of Males per 100 Females 2005	+	City & County Databook 2007
Persons in Poverty 2004 (%)	Percent of Population living in Poverty 2004	+	City & County Databook 2007
Per Capita Income 2005	Per Capita Income in 2005	-	City & County Databook 2007
Unemployment Rate 2006	Unemployment Rate in 2006	+	City & County Databook 2007
Homeownership Rate 2000 (%)	Percent Owner-Occupied Units in 2000	-	City & County Databook 2007
Net Domestic Migration 1990-1999	Domestic In-migration minus Domestic out-migration 1990-1999	?	U.S. Census Bureau Population Estimates Archives
Foreign-born Population 1990 (%)	Percent of Population classified as Foreign-born	+	1990 U.S. Census Bureau STF 3 Files
Foreign-Born Change 1990-2000 (%)	Percent Foreign-born Population Change 1990-2000	+	1990 & 2000 U.S. Census Bureau STF 3 Files
Hispanic Population 1990 (%)	Percent of Population classified as Hispanic	+	1990 U.S. Census Bureau STF 3 Files
Hispanic Population Change 1990-2000 (%)	Percent Hispanic Population Change 1990-2000	+	1990 & 2000 U.S. Census Bureau STF 3 Files

*** **Predicted Relationship to Crime Rates:** These signs represent predicted relationships between these variables and crime rates based on the prior academic studies or reports by law enforcement officials. For example, counties with larger population sizes are expected to have a positive relationship with crime rates (or higher crime rates) and increases in per capita income are expected to have a negative relationship with crime rates (or lower crime rates).

Table 5: OLS Regression Predicting Property and Violent Crime Rates in North Carolina Counties, 2000-2006

Dependent Variables	Model 1		Model 2	
	Property Crime Rate		Violent Crime Rate	
	B	Standard Error	B	Standard Error
Population1990	0.01	0.02	0.00*	0.00
Population Change 1990-2000 (%)	446.02**	110.47	40.96*	16.23
County Size (Area Square Mile)	7.71**	2.72	0.21	0.40
Urban Population 1990 (%)	242.47**	69.13	23.00*	10.16
Urban Population Change 1990-2000 (%)	-0.38	0.32	-0.04	0.05
Black Population 1990 (%)	76.97	57.09	12.16	8.39
Black Population Change 1990-2000 (%)	9.35	14.23	1.52	2.09
Age under 25 years 2005 (% of population)	168.88	294.28	-4.73	43.23
Males per 100 Females	-318.55**	116.80	-38.51*	17.16
Persons in Poverty 2004 (%)	299.66	398.14	165.54**	58.49
Per Capita Income 2005	0.10	0.30	0.06	0.04
Unemployment Rate 2006	2434.67**	770.28	101.35	113.16
Homeownership Rate 2000 (percent)	-174.74	290.76	-15.38	42.71
Net Domestic Migration 1990-1999	-0.17*	0.08	-0.01	0.01
Foreign-born Population 1990 (%)	319.23	1756.29	-299.70	258.00
Foreign-Born Change1990-2000 (%)	2.85	4.44	0.57	0.65
Hispanic Population 1990 (%)	-2027.67	2053.40	24.43	301.65
Hispanic Population Change1990-2000 (%)	-2.77	2.81	-0.49	0.41
(Constant)	23657.91	36563.16	1086.95	5371.17
N	93^a		93	
R2	.741		.704	
Adjusted R2	.677		.631	

* = p<.05 ** = p<.01

^a Seven Counties are omitted from the sample due to unavailable or missing data. These counties include: Ashe, Graham, Hoke, Hyde, Mitchell, Pamlico, and Union.

Financial Costs

Financial Costs of the 287(g) Program

When the 287(g) Program was introduced in North Carolina in 2006, there was little understanding of the costs for start up, implementation, and maintenance. Some politicians, most notably Elizabeth Dole in her 2008 senate bid, said that there was no cost to local jurisdictions for adopting the program. As stated on Dole's campaign blog, "And it's important to note that these programs [287(g)] have been fully paid for by the federal government."⁵⁸ To test whether Dole's and others' statements were accurate, we estimated the financial cost of the program to local jurisdictions in North Carolina.

Other jurisdictions provide a window into understanding the financial costs of 287(g). In Prince William County in Virginia, the estimated cost of the 287(g) program is \$6.4 million annually and \$25.9 million for five years.⁵⁹ The initial costs were much higher than anticipated and allocated for, resulting in the Board of Commissioners raising property taxes by five percent and also reducing funds given to police and fire services.⁶⁰ The annual direct and indirect costs of the program in the state of Arkansas were an estimated \$7.9 million. These costs include training for 21 officers, incarceration, transportation, foster care for children of arrestees, police education campaigns, litigation and legal liability, and increases in wages and prices due to less labor from unauthorized immigrants.⁶¹ In Frederick County, Maryland, the cost of running the 287(g) Program with 26 officers is estimated to cost \$3.2 million per year.⁶²

Maricopa County, Arizona, home to one of the most aggressively anti-immigration Sheriff's offices in the country, has experienced serious fiscal drains from adopting the 287(g) Program as well as other anti-immigration measures, such as prosecuting civil immigration law violators using the human smuggling law.⁶³ A five part investigative report on the immigration enforcement activities of the Maricopa County Sheriff's Office (MCSO) by the East Valley Tribune, which received the Pulitzer Prize for local reporting, revealed that within the first three months after signing the 287(g) partnership agreement, the MCSO experienced a \$1.3 million budget deficit due to overtime payments for extra

58 Elizabeth Dole's blog is available at: <http://blog.elizabethdole.org/>

59 CASA de Maryland, Inc. (2008). "Federick County Immigration Enforcement: Fighting Crime or Just Fighting Immigrants." Silver Springs, Maryland.

60 Shahani, Aarti, and Judith Greene. (2009). "Local Democracy on Ice: Why State and Local Governments Have No Business in Federal Immigration Law Enforcement." San Francisco, California: Tides Center.

61 CASA de Maryland, Inc. (2008). "Federick County Immigration Enforcement: Fighting Crime or Just Fighting Immigrants." Silver Springs, Maryland.

62 *Ibid.*

63 The human smuggling law is usually reserved for individuals who smuggle unauthorized immigrants across national borders. In Maricopa County, individuals violating civil immigration law are being targeted as human smugglers, thereby allowing the sheriff's office to deploy more resources, such as the SWAT team, helicopters, police dogs, and more patrol officers to enforce civil immigration violators. For details, see: Gabrielson, Ryan and Paul Giblin. (July 10, 2008). Overtime led to MCSO budget crisis, records show. *East Valley Tribune.com*. Retrieved from: http://www.eastvalleytribune.com/page/reasonable_doubt

The Complexity of Immigration Law

One of the key deterrents for some agencies that have considered the adoption of the 287(g) Program is the vulnerability to costly lawsuits due to the potential to unintentionally misinterpret or violate federal immigration law. These agencies realize that immigration law is not static, but rather constantly evolving. Immigration law is also complicated and messy, often providing challenges to lawyers who spend their careers trying to understand and keep up with frequent changes. In addition, deciphering the legal immigration status of an individual is not as black and white as proponents of the 287(g) Program may report. According to a report by the Police Foundation, individuals who show up in the federal immigration database as unauthorized may have legal grounds to be in the country. They may have some lawful

status, such as a work visa or a temporary protected status, or they may be in the process of applying for these.* Furthermore, even if none of these apply, they may have entered the country as a political refugee, thereby putting them at grave risk if returning to their home country. Understanding the legal status of political refugees and their rights treads into international law, another large body of work that requires a significant amount of education and training. Determining an individual's right to be in the U.S. and to properly uphold these rights requires deep understanding of the law. The average four to six week training provided by ICE to local law enforcement officials is considered inadequate by many human and civil rights organizations.

* Khashu, Anita. (April 2009). "The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties." Washington, DC: Police Foundation.

work. There were 100 deputies trained through the 287(g) Program, and the extra work was in large part due to the shift in their duties to immigration enforcement. In April 2007, 9,000 over-time hours during that one-month period were billed to MCSO at a cost of \$373,757. The sheriff of MCSO, Joe Arpaio, has explicitly stated that his agency wants to reduce unauthorized immigration, not just crime. In a July 2007 news release, he boasted, "We are quickly becoming a full-fledged anti-illegal immigration agency."⁶⁴ While operating costs can be expensive, unexpected lawsuits resulting in violations while enforcing immigration laws can also be costly. Due to death and abuse lawsuits in Arpaio's jail, Maricopa County has been ordered to pay \$43 million in litigation fees.⁶⁵

Due to the relative newness of the 287(g) Program and the distribution of costs between various agencies at the local, state, and federal levels, itemizing all monetary costs, both direct and indirect, has been difficult. What we know for sure is that the 287(g) Program is not cost-free to local and state jurisdictions, as Elizabeth Dole and other public officials have announced, nor is the cost minimal. Quite the contrary, the direct expenditures of the 287(g) Program, which include start-up, daily operating, and maintenance costs for each program operated in a local or state jurisdiction, cost millions of dollars. When indirect costs, such as litigation fees, are accounted for, the sixty-seven 287(g) intergovernmental partnerships currently operating around the country are costing taxpayers hundreds of millions of dollars.

64 Gabrielson, Ryan and Paul Giblin. (7/10/08). "Overtime led to MCSO budget crisis, records show." *East Valley Tribune.com*. http://www.eastvalleytribune.com/page/reasonable_doubt

65 Shahani, Aarti, and Judith Greene. (2009). "Local Democracy on Ice: Why State and Local Governments Have No Business in Federal Immigration Law Enforcement." San Francisco, California: Tides Center.

There have been numerous jurisdictions around the country that have decided, upon careful evaluation, not to adopt the program. These cases provide insight into the rationale for rejecting the 287(g) Program based on high costs, even under intense political pressure. Experiencing pressure from local officials to adopt the 287(g) Program, Sheriff Edward Rochford of Morris County, New Jersey, a fiscally minded conservative, conducted the most detailed, publicly available, impact assessment of the 287(g) Program to date. In the assessment, he and his staff estimated the costs associated with staffing needs, training needs (both start-up and on-going), jail capacity to handle 60 additional inmates per day, structural renovation costs to meet criteria of the program, and services (i.e. medical, food, sanitation/maintenance) provided to inmates. Rochford estimated that these costs would total \$1.3 million, much of which would have to be paid by the county because, “ICE would not reimburse the County for any start up costs.”⁶⁶ This estimate does not include the potential legal and security costs that arise due to protests of the program. In the process of their research, the Morris County Sheriff’s office spoke with representatives from several jurisdictions that adopted the 287(g) Program and found that lawsuits were commonplace due to a variety of factors, including inmate mistreatment, providing inadequate medical care, and civil rights violations.⁶⁷ Based on these cost considerations, the Morris County Board of Commissioners decided not to support the adoption of the program.⁶⁸

Jurisdictions in North Carolina have also rejected the 287(g) partnership with ICE on the grounds of fiscal concerns. On January 5, 2009, the Chatham County Board of Commissioners approved a resolution that stated,

“BE IT ALSO RESOLVED that, in continuing its belief of controlling its own destiny... while proudly preserving diverse cultural heritages, the Chatham County Board of Commissioners stands in strong opposition to any local governmental agency contracting with the U.S. Immigration and Customs Enforcement (ICE) for the purpose of enforcing federal immigration laws.”⁶⁹

In rejecting the adoption of the 287(g) Program, the Board of Commissioners cited a “lack of fiscal resources” for officer training and the “higher risk of civil liability,” which would make the county vulnerable to lawsuits that could be costly.⁷⁰

Estimated financial costs of the 287(g) Program in Mecklenburg and Alamance Counties

To better understand what the 287(g) Program costs in North Carolina jurisdictions, we estimate basic direct costs of the program for the first full year of operation for Mecklenburg and Alamance Counties, the first two counties to adopt the program in North Carolina. Mecklenburg County Sheriff’s Office signed the MOA agreement with ICE in February 2006 and Alamance County Sheriff’s Office

66 Morris County Sheriff’s Office. (2007). “An Impact Review of the United States Bureau of Immigration and Customs Enforcement 287(g) Program Upon the County of Morris.” Morris County, New Jersey.

67 *Ibid.*

68 Llorente, Elizabeth. (2/22/08.) “Morris Rejects Jail Wing for Illegals.” *NorthJersey.com*. <http://www.northjersey.com/>

69 Chatham County Board of Commissioners. (1/5/09). *Chatham County Resolution on the Federal Immigration and Customs Enforcement (ICE) Program, Part A – The Resolution*, Page 2. Chatham County, North Carolina.

70 Boyer, Robert. (1/10/09). “Chatham Commissioners: We don’t want 287(g).” *Times-News*. <http://www.thetimesnews.com/news/county-21666-resolution-chatham.html>.

signed in January 2007. While the Federal government reimburses local jurisdictions for some of the costs associated with the program, we do not detail which agencies pay for specific program costs. Instead, we estimate the operating costs of these programs to taxpayers in general, not just local taxpayers.

Table 6 reveals that the estimated total cost for the first year of operating the 287(g) Program in Mecklenburg County is \$5.3 million. At a cost of \$5.3 million per year, as of October 2009, the 287(g) Program in Mecklenburg County cost taxpayers an estimated \$19.4 million. As shown in Table 6, this total only includes staff salaries, staff training costs, and the cost of detaining unauthorized immigrants in jail.

An itemized explanation for these costs can be found below:

Items 1-2: Estimated average salaries for staff required to operate the 287(g) Program. These estimates are taken for the University of North Carolina's School of Government 2009 County Salaries in North Carolina, available at: <http://www.sog.unc.edu/pubs/electronicversions/csaindex.htm>. The number of Sheriff's Deputies and Sheriff's Deputy Supervisors are taken from the Mecklenburg County Sheriff Office Memorandum of Understanding with the U.S. Department of Homeland Security signed on 2/7/2006 by Jim Pendergraph, prior Sheriff of Mecklenburg County.

Item 3-4: Total cost calculated for the 8 Sheriff's Deputies and 2 Sheriff's Deputy Supervisors that received training in the first year. These costs represent four weeks of salary for the 8 Sheriff's Deputies and 2 Sheriff's Deputy Supervisors.

Item 5: Cost of training paid by the law enforcement agency, which pays for costs associated with office supplies and reading materials (handbooks, law books) required for the training. These costs do not include travel and boarding expenses for the officers receiving training or salaries for ICE employees providing the training.

Item 6: Estimated annual cost of detaining unauthorized immigrants in Mecklenburg County jail. The Mayor's Immigration Study Commission estimates that 15% of inmates are unauthorized immigrants. Housing these suspected criminals costs \$110 per day and is estimated to cost a total of \$4.8 million per year (available at: <http://www.charmeck.org/Departments/Mayor/ImmigrationStudy/Public+Safety.htm>).

The estimated cost for the first full year of operation for Alamance County is \$4.8 million, as revealed in Table 7. At this rate, the projected cost of the program in Alamance County is nearly \$12.7 million for the first 32 months of operation. Although the annual direct costs to operate the program in Alamance County are similar to Mecklenburg County, Alamance County expanded its existing jail space to accommodate more inmates in anticipation of the adoption of the 287(g) program. In May 2007, construction on the expansion of the Alamance County jail was completed, adding an additional 240 bed spaces at a cost of \$12.2 million.⁷¹ This expansion allows more room to house the growing number of unauthorized immigrants processed through the 287(g) Program in Alamance County and participation in Federal programs that enable unauthorized immigrants to be detained in the Alamance County

71 Winkler, Hannah. (1/18/07). "Jail Costs Continue to Climb." *Times-News*. <http://www.thetimesnews.com>.

Table 6: Cost of 287(g) Program For First Year in Mecklenburg County

	Quantity	Cost	Total
1. Sheriff's Deputy	8	\$41,519	\$332,152
2. Sheriff's Deputy Supervisor	2	\$61,286	\$122,572
3. Salaries for 4 Weeks Training of Sheriff's Deputy	8	\$3,466	\$27,728
4. Salaries for 4 Weeks Training of Sheriff's Deputy Supervisor	2	\$4,714	\$9,428
5. Cost of Training	10	\$500	\$5,000
6. Detention Costs for Unauthorized Immigrants (Year 1)			\$4,800,000
Total			\$5,296,880

jail before being transferred to Federal detention facilities before deportation.⁷² Participation in such programs required that the Alamance County jail be built to federal standards that permit the housing of Federal and ICE detainees, creating additional costs.⁷³

An explanation for each of the itemized costs in Table 7 is as follows:

Items 1-2: Estimated salaries for staff required to operate the 287g Program. These estimates are taken for the University of North Carolina's School of Government 2009 County Salaries in North Carolina publication, retrieved from: <http://www.sog.unc.edu/pubs/electronicversions/csalindex.htm>. The number of Sheriff's Deputies, 12, is derived from a January 23, 2007 News Release from U.S. Immigration and Customs Enforcement, retrieved from: <http://www.ice.gov/pi/news/newsreleases/articles/070123charlotte.htm>. Similar to the cost estimates for Mecklenburg County Sheriff's Office, an assumption is made that there are two Detention Center Lieutenants required to supervise the program.

Item 3-4: Costs for the 12 Sheriff's Deputies and 2 Lieutenants that received training in the first year. These costs represent four weeks of salary for the 12 detention officers and 2 Lieutenants.

Item 5: Cost of training paid by the law enforcement agency, which pays for costs associated with office supplies and reading materials (handbooks, law books) required for the training. These costs do not include travel and boarding expenses for the officers receiving training or salaries for ICE employees providing the training.

Item 6: Estimated costs of detaining unauthorized immigrants in the first year of operation in the Alamance County jail. These numbers are taken from a report entitled, "Alamance County Detention Revenue Report for Fiscal Years 2008/2009" received from the Alamance County Finance Office Oct., 2, 2009. The report estimates the cost of holding Federal/Ice inmates at \$47.93 per day at a total of 91,615 bed days in one fiscal year. These inmates also include persons transferred from other jurisdictions.

72 Winkler, Hannah. (1/13/07). "Jail Expansion to Open Monday." *Times-News*. <http://www.thetimesnews.com/news/county-2051-jail-immigrants.html>.

73 Winkler, Hannah. (1/13/07). "Jail Expansion to Open Monday." *Times-News*. <http://www.thetimesnews.com/news/county-2051-jail-immigrants.html>.

Table 7: Cost of 287(g) Program For First Year in Alamance County

	Quantity	Cost	Total
1. Sheriff's Deputy	12	\$32,854	\$394,248
2. Lieutenants	2	\$49,295	\$98,590
3. Salaries for 4 Weeks Training of Sheriff's Deputy	12	\$2,527	\$30,324
4. Salaries for 4 Weeks Training of Lieutenants	2	\$3,792	\$7,584
5. Cost of Training	12	\$500	\$6,000
6. Detention Costs for Unauthorized Immigrants (Year 1)			\$4,216,162
Total			\$4,752,908

These cost estimates only contain basic direct costs for start-up and operations during the first full year of operation, thereby omitting a number of other significant costs. Therefore, we are confident that these estimates grossly underestimate the full costs of the program to taxpayers, since we did not include the costs for other items that have been paid for by other 287 (g) jurisdictions around the country, such as:

- Expansion or retrofitting of jail
- Sanitation/Maintenance of jail
- Medical services for unauthorized immigrants
- Social services for unauthorized immigrants
- Costs for transport to Federal detention facility
- Court costs associated with processing unauthorized immigrants
- New computer equipment for accessing the Federal immigration database
- Officer uniforms, equipment, and automobiles
- Other personnel salaries to maintain added capacity of jail
- Litigation fees or Freedom of Information Act responses

Beyond these costs, there are a number of indirect costs associated with policing civil immigration violators, which may result in the reduction of the number of unauthorized immigrants residing in the community or immigrants living in the shadows for fear of deportation. These include a reduction in local business revenue, lower sales tax revenue, higher costs of services and goods (due to less available cheap labor), higher medical costs as unauthorized immigrants prolong medical care for fear of being deported, and a host of others.

After several years of 287(g) operations in North Carolina, the full extent of the monetary costs of these programs is still not certain. Our cost estimates provide a glimpse into taxpayers' costs for this new program and identify key fiscal areas in need of investigation.

Evaluating the Impacts of the 287(g) Program

Is the 287(g) Program meeting the stated goals of policymakers? While there have been an increasing number of reports that highlight the expenses of the 287(g) Program, there have been few evaluations about whether the benefits of the program warrant the significant costs to taxpayers. Public officials in support of the 287(g) Program state that the main benefit of the interagency partnerships between local law enforcement and federal immigration authorities is to “fulfill its homeland security and public safety mission...[and] to increase ICE’s ability to identify and remove criminal illegal aliens.”⁷⁴ Furthermore, the priorities of the 287(g) program are to “...ensure that ICE’s finite detention space is used to detain the aliens who pose the greatest risk to the public.”⁷⁵ With these considerations, an evaluation of the benefits of the 287(g) Program involves answering the following key questions:

1. Does the 287(g) Program better enable local law enforcement to identify and arrest unauthorized persons committing serious and violent crimes?
2. Does the 287(g) Program reduce crime?
3. Does the 287(g) Program increase public safety and homeland security?

To evaluate the first question, does the 287(g) Program better enable law enforcement to identify and arrest unauthorized persons committing serious and violent crimes, we examined arrest data received from five County Sheriff’s Offices: Alamance, Cabarrus, Gaston, Mecklenburg, and Wake. Each office provided data for different time periods depending on when the program was implemented.⁷⁶ The data provided in Table 8 consists of individuals who were interviewed through the 287(g) Program, which indicates that these individuals were 1) suspected of committing a crime, 2) detained in a county jail, 3) identified as foreign-born, and 4) determined in the federal database to lack legal immigration status for being in the country. Among the five counties, Mecklenburg has interviewed the greatest number of individuals through the 287(g) Program. In the first 25 months of operation, 9,866 inmates were interviewed by 287(g) trained officers in the Mecklenburg County jail. Among those, roughly 60% or 5,925 individuals were processed for deportation. Wake County has the second highest number of persons interviewed (2,435) through the 287(g) Program and roughly 65% of these individuals were processed for removal from the country. Although the number of individuals received in Cabarrus County jail is significantly lower than the others, their rate of deportation is the very high, at 82.8% (see Table 8). Gaston County has the highest rate of deportation among individuals interviewed, 85.5%.

74 Riley, William F. (March 4, 2009). *Examining 287(g): The Role of the State and Local Law Enforcement in Immigration Law*, p. 5. Testimony before the U.S. House of Representatives Committee on Homeland Security, Washington, D.C.

75 *Ibid*, p. 9.

76 Hard copies of the data from the 287(g) program from each jurisdiction were provided at the request of the ACLU of North Carolina and this data was used in this analysis.

The charges listed in Table 8 represent the state charges levied on unauthorized immigrants at the time that they were booked in the county jail.⁷⁷ Among the categories of charges, arrests related to traffic violations are the most common state charge. Combining the charges in the five counties, traffic violations far exceeded any other category of charges, representing 32.7% of the total charges. The two counties with the highest proportion of traffic violation charges are Gaston and Alamance at 56.5% and 40.7%, respectively. The second most common charge for those individuals identified through the 287(g) Program involves driving while intoxicated or DWI (22.5%), another driving related charge. Taken together, these two charges, traffic and DWI, account for a significant majority of the charges that 287(g) arrestees are booked on. Although these are both charges that affect public safety, they are not the serious and violent crimes for which the program is intended to target. It should be noted that murder or homicide was not listed separately in the majority of 287(g) jurisdictions and are reported to be listed as “Other.” Therefore, the data do not allow for a count of how many murders or homicides are charged to 287(g) detainees.⁷⁸

When the charges are further broken down by whether they are misdemeanors or felonies, as shown in Table 9, the vast majority of the charges are misdemeanors. Among the five counties that provided this information, roughly 86.7% of all individuals booked through the 287(g) Program were charged with misdemeanors and only 13.3% were charged with felonies.

What these numbers tell us is that the 287(g) Program is apprehending unauthorized immigrants for minor crimes or infractions and enabling their deportation. What these numbers also reveal is that unauthorized immigrants are primarily being brought into jail for traffic violations and DWI, both charges that may be a result of a lack of driver’s education and training due to the inability of unauthorized immigrants to apply for and receive North Carolina driver’s licenses.⁷⁹ The disproportionate number of 287(g) inmates arrested for traffic related incidences and misdemeanors raise questions about whether the problem is being used to effectively combat serious or violent crimes by unauthorized immigrants.

One question raised by critics of the program is whether local law enforcement could have arrested these individuals without the 287(g) Program. Since individuals are apprehended based on a suspicion of committing a crime, there is no reason that law enforcement officers could not arrest and detain them in jail. In the absence of the 287(g) Program, immigration status can be determined by contacting ICE officials. If unauthorized immigration status is determined, ICE has the authority to either allow an immigrant to serve his/her jail sentence and be released into the community or be deported. In the past,

77 In addition to these state charges, individuals may also be charged with violating Federal law, such as reentering the country after being deported, once their identity is determined through the Federal database. Although we received tallies for the Federal Charges from local law enforcement agencies, there was little detail about what these charges were because these categories are created and maintained by ICE and not the local law enforcement agencies. Therefore, we do not list them here.

78 Personal Communication, Sergeant Jackie Hughes, Gaston County Sheriff’s Office, September 8, 2008.

79 On August 28, 2006, a new North Carolina law went into effect that changed the criteria for applying for or renewing driver’s licenses. Before the law, individuals were permitted to use an Individual Taxpayer Identification Number (ITIN) as a form of identification to receive a Driver’s License. The law now requires that individuals must provide a Social Security number. While unauthorized immigrants are allowed to receive ITINs, they are not permitted to obtain Social Security Numbers. As a result of not being able to obtain a driver’s license, unauthorized immigrants are not receiving any driver’s education or training in order to pass the driver’s license examinations. Therefore, they may be driving without a license and unfamiliar with the state requirements for driving, as a result of this new law. For more information about North Carolina Driver’s License Requirements, see: Denning, Shea Riggsbee. (2009). “The Impact of North Carolina Driver’s License Requirements and the REAL ID Act of 2005 on Unauthorized Immigrants.” *Popular Government*. 74(3): 1-14, Spring/Summer online supplement. <http://www.sog.unc.edu/pubs/electronicversions/pg/pgspsm09/online2.pdf>

Table 8: State Charges for Unauthorized Immigrants in the 287(g) Program

County	Alamance		Cabarrus		Gaston		Mecklenburg		Wake		Total	
Time Frame	2/19/07 to 4/16/09		3/10/08 to 12/31/08		4/1/2007 to 2/23/09		1/1/07 to 2/23/09		7/8/08 to 3/25/09			
Inmates Interviewed	1290		361		853		9866		2435		14805	
Inmates Processed for Deportation	1014		299		729		5925		1585		9552	
State Charges	Amt.	%	Amt.	%	Amt.	%	Amt.	%	Amt.	%	Total	%
DWI	244	15.0	151	41.6	136	11.9	1460	24.9	429	24.4	2420	22.5
Drugs	145	8.9	25	6.9	72	6.3	402	6.9	146	8.3	790	7.4
Robbery	5	0.3	1	0.3	2	0.2	37	0.6	26	1.5	71	0.7
Sex Crimes	25	1.5	3	0.8	11	1.0	122	2.1	38	2.2	199	1.9
Assault	94	5.8	12	3.3	82	7.2	554	9.5	183	10.4	925	8.6
Domestic Violence	35	2.2	18	5.0	7	0.6	30	0.5	65	3.7	155	1.4
ICE Arrest ^a	53	3.3	0	0.0	0	0.0	0	0.0	19	1.1	72	0.7
Traffic	661	40.7	65	17.9	646	56.5	1731	29.6	413	23.5	3516	32.7
Fraud	43	2.6	8	2.2	19	1.7	19	0.3	34	1.9	123	1.1
Alcohol/Drunk and Disorderly	16	1.0	9	2.5	6	0.5	157	2.7	33	1.9	221	2.1
Theft/Larceny	26	1.6	17	4.7	29	2.5	212	3.6	224	12.7	508	4.7
Breaking and Entering	12	0.7	13	3.6%	5	0.4	130	2.2	38	2.2	198	1.8
Trespass	12	0.7	4	1.1	2	0.2	58	1.0	38	2.2	114	1.1
Resist ^b	0	0.0	11	3.0	7	0.6	95	1.6	0	0.0	113	1.1
Murder/Attempted Murder ^c	0	0.0	0	0.0	0	0.0	0	0	16	0.9	16	0.1
Weapons ^c	0	0.0	0	0.0	0	0.0	0	0	19	1.1	19	0.2
Other	254	15.6	26	7.2	120	10.5	847	14.5	36	2.0	1283	11.9
Total	1625	100.0	363	100.0	1144	100.0	5854	100.0	1757	100.0	10743	100.0

^a Alamance and Wake Counties were the only jurisdictions to have this category of charges.

^b Charges of Resist in Mecklenburg were counted as Other beginning in 1/1/08. Prior to that, Resist was included in its own category. Wake County did not have Resist as a category

^c This category was only listed in Wake County. All other Counties did not classify these charges in a separate category.

Sources: North Carolina Sheriff's Offices 287(g) Inmate Data

Table 9: Severity of Charge for Undocumented Immigrants in the 287(g) Program by County

County	Alamance		Cabarrus		Gaston		Mecklenburg		Wake		Total	
Time Period ^a	2/19/07 to 4/16/09		3/08/08 to 12/31/08		4/2007 to 2/23/2009		1/1/07 to 2/23/09		1/1/09 to 9/30/09			
Charge Type	Amt.	%	Amt.	%	Amt.	%	Amt.	%	Amt.	%	Total	%
Felony	253	17.41	51	14.17	105	9.22	563	10.10	322	15.68	1,294	13.3
Misdemeanor	1,200	82.59	309	85.83	1,034	90.78	5,012	89.90	1,731	84.32	9,286	86.7
Total	1,453	100	360	100	1,139	100	5,575	100	2,053	100	10,580	100

^a The inconsistent time periods across jurisdictions are a result of a variety of factors, including 1) timing of implementation of the 287(g) Program, 2) public release of data, and 3) when each individual jurisdiction began classifying charges by misdemeanors or felonies. Source: North Carolina Sheriff’s Offices 287(g) Inmate Data.

ICE has reserved deportation for Level One offenders convicted of major drug offenses or violent crimes due to budget and Federal jail space limitations.

What has been altered by the 287(g) Program is the decision-making power transferred from ICE to local and state law enforcement agencies to determine immigration status and fast track the deportation proceedings for any individual without proof of legal immigration status. These individuals need only be suspected of a crime, not actually convicted of a crime. Many of these individuals voluntarily choose to be deported before going to court because they fear being imprisoned for long periods of time before their case comes to trial. Therefore, an individual pulled over for a moving violation that is unable to show his identification (driver’s license or passport) to an officer on the spot can be apprehended, taken to jail, processed through the 287(g) Program, and be deported before ever seeing a judge.⁸⁰ Since only 13.3% of the charges in the five 287(g) counties studied were felony charges, local law enforcement officials have employed the 287(g) Program primarily to deport individuals who have committed minor crimes and driving violations.

Adverse effects on public safety: Racial profiling and human rights abuses

Evidence of racial profiling by some law enforcement officers and agencies participating in the 287(g) Program emerged soon after the start of the program in North Carolina counties. A policy report on the 287(g) Program, conducted by scholars at the University of North Carolina School of Law and the American Civil Liberties Union of North Carolina (ACLU-NC), found evidence that the program enabled law enforcement officers to racially profile Hispanics in North Carolina. The report revealed that law enforcement officers pulled over Hispanic-appearing drivers under the pretense of a traffic infraction, but with the intention of determining immigration status (sheriff’s officials have denied any wrongdoing).⁸¹ State Highway Patrol data revealed the routine presence of traffic checkpoints near

80 Rosenbluth, Marty. Presentation at a public immigration forum, Elon University, April 18, 2009.

81 “The Policies and Politics of Local Immigration Enforcement Laws: 287(g) Program in North Carolina,” Immigration & Human Rights Policy Clinic at UNC Chapel Hill and the ACLU-NC, February 2009. <http://www.law.unc.edu/documents/clinicalprograms/287gpolicyreview.pdf>

The Durham Police Department: An Exemplary Model of 287(g) Implementation?

The City of Durham adopted the 287(g) Program in February 2008. An evaluation of the implementation of Durham's 287(g) Program shows that the agency is focused on identifying and punishing serious criminals rather than using the program as an anti-immigration tool. According to Captain Ray Taylor who supervises the 287(g) efforts, only one officer has received 287(g) training from ICE. This officer, who speaks both Spanish and English, is called into the jail when an individual has been charged with a serious crime, such as homicide, aggravated assault, armed robbery, identity theft, possession of an illegal firearm, or other gang related activity, and does

not have proper identification. This officer is not notified in cases that involve misdemeanors or traffic violations, regardless of whether or not the individual charged has identification.*

An examination of the arrest data from the City of Durham supported the Police Department's contention that they only want to focus on the most serious "criminal illegal aliens." From February 2008 to April 2009, only 82 individuals were interviewed through the 287(g) Program and among those, 64 were processed for removal from the country. All were charged with felonies and/or violent crimes.** While the city of Durham has a sizeable number of immigrants, the numbers of individuals processed

locations frequented by Hispanics (e.g. Catholic churches, flea markets, and Hispanic trailer parks) in Alamance and Orange counties.⁸² This practice violates a NC state law requiring checkpoint locations to be selected randomly. Informants in Alamance County reported that police have checked drivers *and* passengers for licenses in order to determine legal status. A report by the Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity at Berkeley Law School revealed that Hispanics in Irving, Texas were unjustly targeted in 2007 as part of an effort to enforce federal immigration laws through the ICE Criminal Alien Program (CAP). Like 287(g), CAP authorizes local law enforcement agencies to place arrestees into deportation proceedings. The study found that from January 2006 through November 2007, the number of Hispanics arrested for minor crimes increased by nearly 150 percent.⁸³

Other cases in North Carolina provide evidence that the 287(g) Program has been used in excessive and extraordinary ways. In February of 2008, a Hispanic gunshot victim in Alamance County was arrested and taken into custody after calling 911. The reason for his arrest, which resulted in deportation, was cited as "providing the wrong address for the crime scene."⁸⁴ In August 2008, five Hispanic men were arrested for fishing without license by a wildlife officer and later processed for deportation.⁸⁵ Students have been arrested in schools for pranks,⁸⁶ U.S. citizens have been mistakenly deported,⁸⁷ and law enforcement officials have even investigated local health clinics looking for unauthorized patients.⁸⁸ In

82 Statistics submitted by the Office of the North Carolina State Highway Patrol to the ACLU-NC, March 2009.

83 <http://www.law.berkeley.edu/ewi.htm>.

84 Abernethy, Michael. (2/16/08). "Wild-Goose Chase' Lands Two in Jail." *Times-News*. http://www.thetimesnews.com/news/martinez_10498___article.html/jones_shooting.html

85 Rivas, Karen. (8/14/08). "Arrested on fishing without a license charge, is it unusual or not?" *Times-News*. <http://www.thetimesnews.com/>

86 Flores, Micah. (2/9/08). "Students could face deportation." *Times-News*. <http://www.thetimesnews.com/>

87 Collins, Kristin. (4/30/09). "Feds wrongly deport citizen living in N.C." *News & Observer*. <http://www.newsobserver.com/>

88 Author. (8/19/08). "Probe finds no wrongdoing at Alamance agency." *Times-News*. http://www.news-record.com/content/2008/08/19/article/probe_finds_no_wrongdoing_at_alamance_agency

through the 287(g) Program are substantially lower in the first fifteen months of operation than all the other counties adopting the program, even those with smaller immigrant populations, such as Gaston and Cabarrus counties.

In addition to solely focusing on serious criminals, the Chief of Police and his staff have attempted to educate and reach out to the migrant community by providing reassurance that the 287(g) Program is not intended to be used as an anti-immigration tool to round up racial/ethnic minorities to check for immigration status. Both the Police Department and City Council members in Durham are concerned about how the program impacts trust and

communication between law enforcement and the migrant community. To address these concerns, the City Council passed a resolution, which provided guidelines and constraints to the program and were incorporated into the MOA. Based on an early assessment of the 287(g) Program in Durham, the daily operations of the program come closest to the original intent of the program as designed by policymakers.

* Durham Police Department, 287(g) Data, 9/23/09.

** Ibid.

other cases, arrests for traffic violations resulted in neglect or abandonment of minors on the scene. In July 2008, three children were stranded on Interstate 85 at night for eight hours when their mother was arrested by an Alamance County Sheriff's Deputy.⁸⁹ Even agencies such as the City of Durham Police Department that claim to not investigate immigration status except in major felony cases report that they have been harmed by the program's negative reputation in neighboring jurisdictions. ". . . it's hard for them to understand the fact that the city of Durham is not like Alamance County or other police departments in how it handles 287(g)," said Durham Police Chief Jose Lopez.⁹⁰

Does the 287(g) Program reduce crime rates?

Has the 287(g) Program reduced or deterred crime? Unfortunately, DHS imposed no requirement for agencies that adopt the 287(g) Program to track rates of crime before and after the adoption of the program. As a consequence, there has not been any rigorous evaluation of the effectiveness of the program as a crime deterrent tool. Many of the "success" stories about the program are limited to brief descriptions of felons identified through the program or a list of the number of unauthorized immigrants identified and deported. These stories and others listed on ICE's website mention nothing about reductions in crime or deterring crime.

When crime reduction is reported, no empirical evidence is used to support these assertions. For example, the General Accountability Office's (GAO) survey of 29 law enforcement agencies participating in the 287(g) program reported that, "Participating agencies cited benefits of the program including reduction in crime and removal of repeat offenders."⁹¹ The GAO provided no statistical evidence to

89 Collins, Kristin. (7/23/08). "Mom Arrested, Kids Left on I-85." *News & Observer*. http://www.newsobserver.com/news/crime_safety/story/1150866.html

90 Upchurch, Keith. (7/15/09). "Lopez focuses on immigration, en espanol." *The Herald-Sun*. <http://www.heraldsun.com/>

91 General Accountability Office. (2009). "Immigration Enforcement: Better Controls Needed over Program Authorizing State and Local Enforcement of Federal Immigration Laws," p. 6. Washington DC.

A Standardized 287(g) Memorandum of Agreement (MOA)

On July 1, 2009, the Department of Homeland Security changed the 287(g) Program to emphasize a stronger focus on apprehending “criminal illegal aliens” as opposed to minor infractions and crimes. DHS issued a new standardized MOA for all existing and future local partners. The new MOA required that “participating local law enforcement agencies are expected to pursue all criminal charges that originally caused the offender to be taken into custody” in order to “address concerns that individuals may be arrested for minor offenses as a guise to initiate removal proceedings.”* The intent of the MOA is to discourage arrests for petty crimes.

However, the consequences of not meeting this “expectation” are absent. There is little indication that the new MOA will change current arrest patterns, which are already in violation of the spirit of the 287g Program in its original form. “If I’m told not to enforce immigration law except if the alien is a violent criminal, my answer to that is we are still going to do the same thing, 287g or not,” said Maricopa County Sheriff Joe Arpaio in July of 2009.** A lack of meaningful consequences, such as the termination of the MOA or penalties to 287(g) agencies, provides little motivation to alter current behavior.

* U.S. DHS, http://www.dhs.gov/ynews/releases/pr_1247246453625.shtm

** Jordan, Miriam. (7/11/09). “New Curbs Set on Arrests of Illegal Immigrants.” *Wall Street Journal*.

support these claims, thus relying on agency self-reports. In fact, the lack of data collection among 287(g) participating agencies led the GAO to recommend that ICE specify the data that agencies are required to collect.

Although no rigorous study has been conducted to determine the causal connection between the 287(g) Program and crime, law enforcement agencies have nevertheless reported that 287(g) has reduced crime. For example, Sheriff Johnson reported that the adoption of the 287(g) Program has resulted in a 50% reduction in violent crimes in Alamance County. Furthermore, he asserted that between February and September 2007, there were 38% fewer rapes and 29% fewer armed robberies reported compared to the same period the previous year, and attributed that decline to the 287(g) Program.⁹² In Virginia, Prince William County Board of Supervisors’ Chairman Corey Stewart claimed in May of 2009 that the 287(g) Program has reduced violent crime by 19.3% in the first year of participation in the program and another 22% in the following year.⁹³

While at first glance these numbers appear promising, there are concerns that the reason for the reduction in reports of crime is not due to fewer crimes being committed, but rather an underreporting of crimes by unauthorized victims afraid of being deported. The increase in break-ins by 11% during February and September of 2007 reported by Sheriff Johnson’s agency⁹⁴ may indicate that immigrants are being targeted because they carry cash and are less likely to report crimes. Below we will analyze the incidence of underreporting crime in more detail.

92 Murawski, Tomas. (12/06/07). “Sheriff Heralds 287(g) Program, says Gang Activity Down.” *Alamance News*.

93 Patricia Phillips’s website. <http://www.patriciaphillips.org/news.php?id=4602>

94 Murawski, Tomas. (12/06/07). “Sheriff Heralds 287(g) Program, says Gang Activity Down.” *Alamance News*.

Secure Communities

A new Immigration and Customs Enforcement (ICE) initiative called Secure Communities operates in a similar way to the 287(g) Program. Secure Communities uses a biometric identification program in which the fingerprints of any person in local law enforcement custody are sent to an ICE national database that logs all contacts between immigrants and authorities. In this way, ICE is able to identify “criminal illegal aliens” to be deported. Similar to the 287(g) Program, the intent of Secure Communities, as explained on the ICE website, is to target the most dangerous criminals. The website reads, “By prioritizing immigration enforcement actions on the most dangerous criminals, ICE uses its resources judiciously.”*

However, Secure Communities can be used to deport any unauthorized individual, however minor the suspected crime, once he/she has been brought into custody. Arrest data in the first year of Secure Communities confirms that the program in practice resembles the 287(g) Program. According to ICE spokesperson, Richard Rocha, about half of the people deported in the program were charged with minor offenses.** With no training program or reporting requirements, Secure Communities has less transparency and oversight than the 287(g) Program. In 2009, Secure Communities was implemented in 12 counties in North Carolina and 48 nationwide.

* U.S. DHS, http://www.ice.gov/pi/news/factsheets/secure_communities.htm

** Eviatar, Daphne. (5/22/09). “Fingerprinting Plan Will Dramatically Increase Deportations.” *The Washington Independent*. <http://washingtonindependent.com/44141/fingerprinting-plan-will-dramatically-increase-deportations>

Does the program enhance public safety and homeland security?

Does the 287(g) program makes communities safer by enhancing homeland security? 287(g) proponents argue that the program accomplishes these goals in a number of ways. First, access to the Federal immigration database allows local law enforcement to properly identify suspected criminals. Without the 287(g) Program, individuals using false identification may serve their jail sentence and then be released. In the past, if they were incarcerated numerous times and used a different alias each time, there was no way that local law enforcement would be able to connect these aliases unless they contacted federal immigration officials. The 287(g) Program allows local law enforcement agents to check fingerprints in the federal immigration database to properly identify criminals, thereby potentially reducing the number of repeat offenders. Second, local law enforcement agencies, which have important roles in national defense, have asserted that the program enables them to weed out “criminal illegal aliens” much more easily, thereby deterring crime. For example, if local law enforcement officers suspect an individual of having a gang affiliation, because of gang tattoos or an association with known gang members, they can monitor and bring him to prison if he commits even a minor violation. If an individual is a known gang member AND also unauthorized, local law enforcement can immediately start the process of deportation. They no longer have to wait until the individual commits a serious offense before contacting ICE and requesting deportation. This type of strategy may prevent serious crimes among those involved with gangs. Finally, proponents of the 287(g) Program argue that granting local authorities the power to work with ICE in deporting thousands of “criminal illegal aliens” and physically remove them from the U.S. prevents and reduces future crime, making communities safer.

287(g) critics argue that in theory, the program could potentially make communities safer. The purported benefits stated above are based on the assumption that local police would prioritize serious criminals. The potential benefits of identifying people who pose a threat to public safety are compromised, however, by focusing resources on deporting people with minor offenses. Moreover, failure to comply with the intent of the program has also created a number of unintended consequences that pose threats to overall public safety.

One unintended consequence that has far-reaching negative impacts on public safety is the growing perception that law enforcement officials in 287(g) counties are no longer a source of protection for all community members. Research conducted with Hispanic informants in 287(g) jurisdictions reveals that immigrants—legal and unauthorized—have increasingly developed fear and distrust of police. In a focus group with Hispanic community members in Charlotte, North Carolina, one participant remarked, “There is a big breach of confidence between the Hispanic community and the authorities. They have worked really hard to improve relations and now there isn’t trust for police. The object [sic] of the Sheriff, to protect and serve, is not happening. On the contrary, the community is living in fear. They are supposed to protect regardless of color, nationality, race, etc.”⁹⁵ In Alamance County, posters began to appear in public places throughout the county in the summer of 2008 warning Hispanics to avoid law enforcement officers at all costs. One such poster read:

Attention Hispanos! It is respectfully advised NOT to speak with police in Alamance because of the decision of the sheriff. . . and county commissioners. . . who have authorized local police to trap and arrest unauthorized immigrants. . . Avoid them as if you would avoid the devil.⁹⁶
[translated from Spanish]

Underreporting crime

Our research indicates that fear of police has impacted public safety by discouraging Hispanics from reporting crime. Interviews in 287(g) jurisdictions suggest that there has been a rise in underreporting of crime in Hispanic communities. Out of twenty-five Hispanics interviewed in Alamance County between June 2007 and November 2008, twenty-three stated that they felt the 287(g) Program had decreased their trust in law enforcement. When asked “what would you do if you were the victim of a crime,” the same number stated that they would hesitate before reporting crime to authorities out of fear that a friend, neighbor, or family member might be placed in danger of deportation. When asked to elaborate, informants related personal experiences or newspaper reports of crime victims who had been arrested and deported after seeking help from police. They also spoke of arrests of unauthorized minors at local high schools, deportations of U.S. citizens, and public statements by local officials stating dislike for Hispanic immigrant populations. These perspectives were not those of unauthorized immigrants alone, but of the larger Hispanic community of mixed status families who are hesitant to expose themselves because of their relationships with unauthorized relatives, friends, and neighbors. As one informant, a legal permanent resident, stated: “I am afraid to report crime because I am afraid of police. I don’t know what they will do to me or my family.”⁹⁷

Another study, conducted in 2008 in Durham, a city in which nearly half of all robbery victims in

95 Focus Group. 10/22/07. Ten Hispanic community members at the Latin American Coalition. Charlotte, North Carolina.

96 Poster found in Southern Alamance County on August 10, 2008, in the private collection of the authors.

97 Confidential Interviewee, Personal Communication, 7/10/08.

2006 were Hispanic, suggested that the program has increased underreporting of crime and exacerbated gang activity.⁹⁸ The study interviewed police as well as Hispanic crime victims, who described their fear to alert police because of the 287(g) Program. Durham City Police Captain Ray Taylor acknowledged how the program creates fear: “One of the biggest reasons they feel they can’t trust us is that they feel they will be deported, that we will check their immigration status when they report a crime.”⁹⁹

Increased victimization of immigrants

Once predators realize that certain groups will not turn to the law to report crime, these groups become vulnerable to attacks. Hispanics in Charlotte interviewed for this study reported that they have been robbed more frequently after the implementation of the 287(g) Program because of their vulnerability and because they will no longer report crimes to the police.¹⁰⁰ In Alamance County, Hispanic informants reported that they felt they were more vulnerable to muggings and other crimes because now they had to walk everywhere in a city designed primarily for driving.¹⁰¹ Increased victimization of Hispanics nationwide is also reflected in FBI hate crime statistics, which show a 40 percent increase in hate crimes towards Hispanics from 2003 to 2007.¹⁰²

Informants report that the erosion of trust between immigrants and police undermines the hard work that law enforcement agencies have been accomplishing for decades to build bridges to low-income communities. School-based programs like D.A.R.E. and G.R.E.A.T. that employ local police to talk to youth about driver’s safety, drug awareness and gang prevention rely upon the image of a cop as a role model. Community members perceive that these educational programs, which aim to improve public safety and health, lose credibility and efficacy when police become immigration authorities. Police chiefs throughout the country state that open communication and building trusting relationships are critical tools for law enforcement officials in intelligence gathering efforts. Witnesses play a significant role in efforts to collect information about crimes. Lack of cooperation of a segment of the population (i.e. immigrants) puts the community at-large at risk for unsolved crimes.

These unintended consequences challenge the claim that public safety is enhanced by the 287(g) Program. Evidence to-date suggests that there are reasons to be cautious about staking claims to the efficacy of the program as a crime fighting and crime reduction tool. More rigorous data collection efforts and monitoring of the program need to be conducted in order to make any conclusive statements about its success.

98 Smith Overman, Ian. (2009). “Conflicting Perceptions: Between Sanctuary and 287 g in Durham, North Carolina.” Honors Thesis, UNC Chapel Hill, p. 6.

99 *Ibid.*

100 Focus Group. (10/22/07). Ten Hispanic community members at the Latin American Coalition. Charlotte, North Carolina.

101 Information compiled from interviews with five Hispanic residents in Alamance County, September-December 2007.

102 FBI 2007 Hate Crime Statistics, <http://www.fbi.gov/ucr/hc2007/index.html>.

Conclusions

Conclusions

Our study of the 287(g) Program in North Carolina provides insights into taxpayer costs and consequences, both intended and unintended, of local immigration enforcement. Several key results emerge from our multi-year study. First, implementation and support for the 287(g) Program appears to be motivated by perceptions about the relationship between immigration or racial/ethnic change and crime instead of actual trends. Our analyses of crime data in North Carolina indicate that:

1. Although the number of crime incidences in 287(g) counties is higher than other counties in North Carolina, they are proportionate to their population size.
2. Relative to other North Carolina counties, average annual increases in crime in 287(g)-adopted counties are low.
3. Even in the face of rapid immigration and Hispanic population growth since 1990 in 287(g)-adopted counties, crime incidences have remained steady over time.
4. There is no statistical association between immigration or Hispanic population growth and crime rates. The best predictors of crime are factors relating to population growth, urbanization, gender composition and economic distress.

What may be occurring in jurisdictions that adopted the 287(g) Program is that population growth and demographic change have resulted in a shift in the racial and ethnic make-up of the inmate population, creating a perception that immigration is causing an increase in crime.

Second, the 287(g) Program is operating counter to the stated goals and priorities outlined by the U.S. Department of Homeland Security, which is to apprehend and assist with deporting Level One offenders posing the greatest threat to public safety and homeland security. Instead of focusing on serious and violent crimes, the vast majority (86.7%) of individuals processed through the program in the five counties we studied are charged with misdemeanors, the majority of which are due to driving related incidences. The large number of unauthorized immigrants, mostly Hispanic, being deported for driving related offenses have raised considerable concerns about racial profiling. There is mounting evidence that law enforcement officers are pulling over Hispanic-appearing drivers under the pretense of a traffic infraction with the intention of determining immigration status.¹⁰³

Third, although the program is still relatively new, there is little evidence that the 287(g) Program is reducing or deterring crime. Since the majority of jurisdictions in North Carolina have adopted the 287(g) jail model, the program works to identify unauthorized immigrants who are suspected of

103 “The Policies and Politics of Local Immigration Enforcement Laws: 287(g) Program in North Carolina,” Immigration & Human Rights Policy Clinic at UNC Chapel Hill and the ACLU-NC, February 2009. <http://www.law.unc.edu/documents/clinicalprograms/287gpolicyreview.pdf>

committing a crime and taken to jail. The program does not focus on outreach, education, or community building efforts within the immigrant community, which have been found to be effective in reducing and deterring crime among immigrant populations. Instead, the unintended consequences of the 287(g) Program, as reported by Hispanics in the study, include underreporting of crime, increased victimization of immigrants and racial/ethnic minorities, dissolution of trust between immigrants and law enforcement officers, and less cooperation among immigrants to aid law enforcement in solving crimes. All of these unintended consequences may have the opposite effect of increasing rather than decreasing crime.

Finally, the 287(g) Program incurs local, state, and federal taxpayer costs associated with program start-up, daily operations, and maintenance. In Alamance and Mecklenburg, the first two counties to adopt the 287(g) Program in North Carolina, the cost of implementing and maintaining the program in the first year are estimated at \$4.8 million (Alamance) and \$5.3 million (Mecklenburg). Beyond these costs, there are a number of indirect costs associated with policing civil immigration violators, which include litigation fees, reduction in local business revenue, lower sales tax revenue, and higher costs of services and goods. Therefore, contrary to statements made by public officials, implementing and maintaining the 287(g) Program in local jurisdictions in North Carolina incurs a significant cost to local taxpayers.

Policy Recommendations

Given the high financial and social cost of the 287(g) Program, local jurisdictions must consider whether dedicating human and financial resources and jail space to apprehending and incarcerating individuals suspected of committing minor criminal offenses and traffic violations is a wise use of taxpayer funds, or if resources are better spent on efforts that have proven efficacy in tackling serious crime.

How can existing 287(g) Programs be improved? In rare cases like the City of Durham, where 287(g) is in compliance with the U.S. Department of Homeland Security's stated purpose, resources have been prioritized on felony cases. This practice sends a message to immigrants that police are fulfilling their primary duty to serve and protect all, minimizing the fear and distrust that lead to underreporting of crime and increased victimization. Limiting deportations to convicted felons would prioritize program resources on serious crime. However, even prioritizing felons is a limited improvement, since local-level decisions to comply with DHS are compromised by non-compliance in neighboring jurisdictions. Even with the introduction of standardized MOAs, the variations in implementation and interpretation of the program throughout local jurisdictions around the country creates potential for abuses (as seen in the case of Maricopa County, Arizona) without adequate oversight and review of the program. There is also a lack of transparency about how the program operates, thereby creating tremendous fear and mistrust of law enforcement, even when law enforcement officers adhere to the guidelines in the MOAs.

Recommendations for program improvement have been described in detail by legal advocates, scholars, and government bodies, who point to the need for program steering committees comprised of community members, more transparency and accountability by both local law enforcement agencies and U.S. Immigration and Customs Enforcement, and comprehensive program evaluations.¹⁰⁴ On the other hand, a growing number of advocacy groups throughout the nation have called for the elimination of the program based on reported abuses and human and civil rights violations.

If the program remains in operation and is expanded in North Carolina, we recommend the following. First, local law enforcement agencies must spend resources on community outreach, education, and opening lines of communication with their immigrant community. Second, agencies adopting the 287(g) Program should hire bilingual, bicultural, or at the least, culturally sensitive law enforcement officers to implement the program. Finally, local arrest data from the 287(g) Program and crime data must be made publicly available to increase transparency and accountability.

104 For a detailed report on improving existing 287(g) programs statewide, see Gill, Nguyen, Parker, and Weissman. "Legal and Social Perspectives on Local Enforcement of Immigration under the Section 287(g) Program." *Popular Government*, 74(3): 1-14, UNC School of Government <http://www.sog.unc.edu/pubs/electronicversions/pg/pgspsm09/article2.pdf>.

The Latino Migration Project

The Institute for the Study of the Americas & *The Center for Global Initiatives*
The University of North Carolina at Chapel Hill

The mission of the Latino Migration Project is to understand the impact and implications of the expanding Latin American and Latino presence in North Carolina through teaching, research, and public engagement initiatives.

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