

# Interior immigration enforcement: The impacts of expanding local law enforcement authority

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## Abstract

A growing emphasis on interior immigration enforcement in the US has broadened the legal authority of state and local law enforcers to investigate and enforce immigration violations, thereby expanding the federal government's interior enforcement capabilities. This study investigates how local immigration enforcement programs, such as 287g, alter the operational priorities of local law enforcers and impact communities in two jurisdictions in North Carolina. Our findings show that despite different jurisdictional implementation styles and contexts, the 287g Program led to increasing fear and distrust of law enforcement among immigrants and affected police–community relationships in ways that compromise public safety and security. The unintended negative community consequences found in our study suggest that the federal government should be more cautious about authorising state and local jurisdictions to carry out immigration enforcement.

## Keywords

enforcement, immigration, interior, local, policing

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## Introduction

After the 11 September 2001 (9/11) attacks, the federal government began to partner with state and local law enforcement agencies through the ICE ACCESS 287g Program (287g) in order to defend its interior from terrorists. Believing that the 'war on terror' was insufficiently staffed by the roughly 23,600 Border Patrol and special federal immigration agents, the federal government rapidly expanded 287g (Bloom,

2009). Janet Napolitano, Secretary of Homeland Security, explained the rationale for the decentralisation of immigration authority:

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But the homeland security enterprise extends far beyond DHS [Department of Homeland Security] and the federal government ... it requires not just a 'whole of government,' but a 'whole of nation' approach. In some respects, local law enforcement, community groups, citizens, and the private sector play as much of a role in homeland security as the federal government. That is why I like to say that, 'homeland security starts with hometown security'. (Napolitano, 2011)

The terrorist attacks induced a variety of changes in security and public safety, most noticeably at airport security checkpoints, entrances of public buildings and in public spaces. The attacks also raised concerns about security challenges posed by the estimated 11–12 million unauthorised immigrants living in the country at the time. Following numerous failed attempts to reform immigration at the federal level throughout the mid-2000s, state and local agencies began policing immigration using a variety of existing local regulations and ordinances (Varsanyi, 2008, 2010). State and local government officials also passed new anti-immigration legislation, such as the 'Illegal Immigration Relief Acts', first adopted in Hazleton, Pennsylvania and Arizona's SB 1070 and Alabama's HB 56. These two statewide bills expanded the authority of public employees to ask for proof of legal immigration status. These attempts by state and local governments to develop new immigration legislation have been controversial and challenged in court primarily because of contentions that they overstep federal immigration authority.

In contrast to these other strategies for immigration enforcement, 287g is a federal program, authorised through Section 287g of the Immigration and Nationality Act of 1996. Section 287g enables the federal government to partner with state and local law enforcement agencies to enforce civil and criminal immigration violations. A civil immigration violation involves illegal

presence in the country, such as crossing the Canadian border illegally or overstaying a travel or student visa. Criminal immigration violations involve such acts as smuggling an unauthorised immigrant (Seghetti et al., 2005).

The ability to enforce civil immigration violations through 287g has broadened the legal authority of state and local law enforcers and gives them greater responsibility for interior immigration enforcement. Given the rapid expansion of local interior enforcement programs, it is important to understand the effects of these programs on local communities. In this study, we examine (1) whether additional immigration enforcement duties alter local law enforcement agencies' operational priorities, (2) how granting additional immigration enforcement powers changes public perception about local officers' duties and responsibilities, and (3) the effects of increased local interior enforcement on the lives of immigrants and their families.

### **The 287g Program in theory and practice**

By June 2012, the US Immigration and Customs Enforcement (ICE) agency had signed 287g partnerships or Memoranda of Agreements (MOAs) with 68 state and local law enforcement agencies in 24 states. ICE had trained over 1500 state and local law enforcement officers and granted them the authority to enforce federal immigration laws. By this time, 287g Programs nationwide were credited with deporting over 279,311 unauthorised immigrants (ICE, 2012). Between 2006 and 2010, the program grew rapidly, with a budget of \$5 million in 2006 to roughly \$68 million in 2010 (US Office of the Inspector General, 2010). As 287g partnership agreements expired in 2013, ICE opted not to renew them, because of the adoption of another interior

enforcement program that uses a biometric identification system called Secure Communities (hereafter, SComm). As of August 2014, there were only 35 active 287g partnerships (ICE, 2014a). It is expected that the 287g Program will be phased out and SCOMM will be adopted in every jail around the country. If this occurs, it will be the most extensive interior immigration enforcement program ever adopted.

There are three types of 287g models that scholars have identified: jail, task force and hybrid. The jail model allows officers to determine immigration status, using a federal immigration database, once an individual is taken to prison and charged with a crime. The task force model authorises officers in the field conducting routine tasks to interrogate individuals about their immigration status even before a crime is committed. Officers have the authority to use their discretion in asking for immigration status in the task force model. The hybrid model allows for identification at the jail or in the field (for a more detailed discussion about 287g models, see Nguyen and Gill, 2010 and Armenta, 2012). All the models allow local officials to conduct the administrative paperwork for deportation and transfer to a federal detention centre. Regardless of the model employed, the federal government's official stance is that 287g should focus on 'criminal aliens, particularly those who pose the greatest risk to public safety and community' (ICE, 2014b).

While local implementation of 287g varies significantly as a result of different models and context-specific differences that include socio-historical factors, local politics and policing norms (Capps et al., 2011; Coleman, 2012; Nguyen and Gill, 2010; Varsanyi, 2010; Varsanyi et al., 2012), arrest data from 287g jurisdictions across the nation reveal an important trend: the program has been used primarily to arrest and

deport people with minor infractions (Coleman and Kocher, 2011). In this way, police exercise their authority to police civil immigration violations (Armenta, 2012; Coleman, 2012; Gill et al., 2009; Nguyen and Gill, 2010; University of North Carolina at Chapel Hill and the American Civil Liberties Union, 2009). These practices do not comport with the federal government's operational priorities, which emphasise the need to focus on serious criminals who pose the greatest risk to public safety. Coleman (2012) asserts that the 287g jail model allows for broader participation of law enforcers, because any officer, not just those working in jails, can arrest someone suspected of being an unauthorised immigrant knowing that their immigration status will be checked when they arrive at jail. Moreover, the geographic spaces for local immigration enforcement are expanded with the availability of the 287g task force model by allowing officers to ask about immigration status during their regular policing activities. The variations in implementation models and the unevenness in adoption across the country create a 'patchwork' interior immigration enforcement strategy that may play out very differently in the local context (Varsanyi et al., 2012).

### *Force multiplier effect or detractor?*

Some scholars argue that the inability of law enforcers to identify and track unauthorised individuals exposes the country to homeland security and public safety risks. They contend that broadening the authority of state and local law enforcers expands interior enforcement territory and creates a 'force multiplier' effect, especially since state and local law enforcers are typically first responders to public safety and terrorist threats (Kobach, 2005; Provine et al., 2012; US

Office of the Inspector General, 2010; Vaughan and Edwards, 2009).

However, 287g may create competing objectives for state and local law enforcement, detracting from their primary duties of policing crime and securing public safety (Bolick, 2008; Nguyen and Gill, 2010; Waslin, 2010). Questions have also been raised as to whether the focus on policing immigration violators distracts agencies from their primary mission of protecting the public from crime (Hincapie, 2009; Nguyen and Gill, 2010; University of North Carolina at Chapel Hill and the American Civil Liberties Union, 2009; Waslin, 2010). Furthermore, concerns have been raised about abuses of power among local law enforcers because of a lack of program transparency and accountability (Hincapie, 2009; Khashu, 2009; US General Accountability Office, 2009; US Office of the Inspector General, 2010). Motomura (2011: 1856) notes that the degree of discretion involved when local police make arrests is problematic, as these gatekeepers fill ‘... the enforcement pipeline with cases of their choice for civil removal and possibly criminal prosecution as well’ (p. 38).

### *The chill effect*

Expanding immigration authority to state and local agencies may also have negative community consequences. One consequence, often dubbed the ‘chill effect’ involves the erosion of trust, cooperation and communication between police and immigrant communities after the adoption of immigration enforcement policies. It is argued that local enforcement of civil immigration violations may create fear of deportation among unauthorised immigrants and their family members, thereby reducing their willingness to contact police to report or assist in solving crimes (Arnold, 2007; Idilbi 2007–2008; Lewis and Ramakrishnan, 2007; Mann

et al., 2013; Ridgley, 2008; Rodriguez et al., 2010). Studies have found that unauthorised immigrants live in the ‘shadows’ to avoid coming into contact with any uniformed officer, including those that have no immigration enforcement authority, because they may not understand which officers have the authority to investigate immigration status (Nguyen and Gill, 2010). Factors such as respectful treatment, communication and length of time spent with a suspect can have an effect on an individual’s trust of police (Stuntz, 2002).

### *Police–immigrant relations*

The Equal Protection Clause of the Fourteenth Amendment offers protection to all people within the jurisdiction of the USA and prohibits law enforcement agencies from stopping, detaining or seizing individuals on the basis of racial characteristics (United States v. Brignoni-Ponce, 422 U.S. 873, 884, 1975). Legal scholars contend that the existence of 287g and SCOMM in local jurisdictions may be violating the Equal Protection Clause in two ways. The first relates to offering protection to all people. Law enforcement officers are tasked with providing equal protection to all community members, regardless of immigration status. Having officers enforce civil immigration violations may create conflicting priorities in their day-to-day duties and may not allow them to equally protect all community members. For example, if unauthorised immigrants do not report crimes or serve as witnesses in court, this population is at greater risk of victimisation and is not being served adequately by the police. Furthermore, if this population is spatially concentrated (i.e. living in immigrant neighbourhoods), entire neighbourhoods may be underserved by police (Kleinert, 2005–2006). Such instances could be considered a violation of equal protection under the law and deemed unconstitutional.

The second manner that 287g and SCOMM may be violating the Equal Protection Clause relates to discrimination based on racial characteristics, or 'racial profiling' (Garner and Black, 2004). Studies have found that the lack of program oversight and transparency offers a cover for local law enforcement to engage in racial profiling, particularly among Hispanics (Capps et al., 2011; Gill et al., 2009; Trevor and Kohli, 2009). A study of 287g arrest data in Davidson County, Tennessee revealed that the arrest rates for Hispanic defendants driving without a license increased from 23.3% to 49.4% after the program was implemented (Tennessee Immigrant and Refugee Rights Coalition, <http://www.tnimmigrant.org>). There are two possible explanations for these findings: officers may have stopped more Hispanic drivers and, therefore, found more instances of driving without a license, or officers may have stopped more Hispanic drivers in order to check their immigration status. Either of these explanations raises concerns about racial profiling.

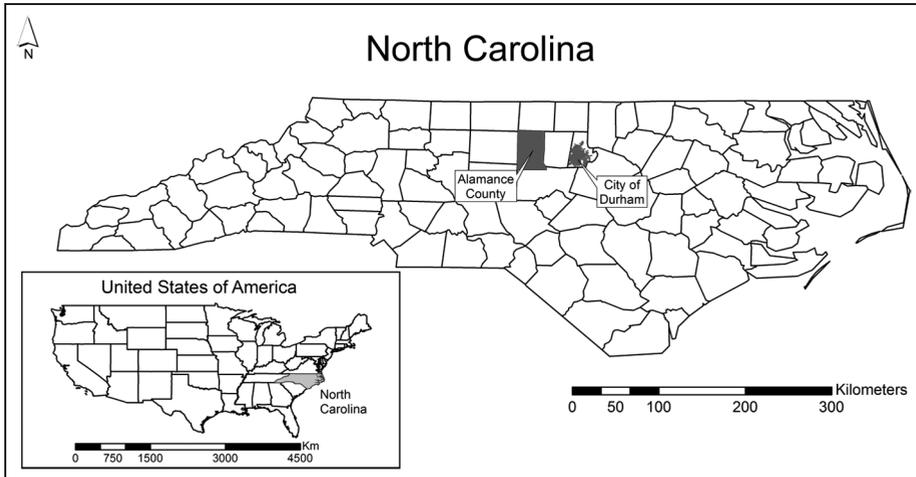
Although racial profiling is very difficult to prove, there are concerns that local immigrant enforcement programs such as 287g and SCOMM make it easier for local law enforcement officials to discriminate. Reports indicate that pretextual vehicle stops (stops in which officers detain people for a traffic offence because they are suspicious of immigration status) have risen in some jurisdictions that have adopted 287g, particularly those that follow the jail model (Capps, 2011; Gill et al., 2009; University of North Carolina at Chapel Hill and the American Civil Liberties Union, 2009). It is important to note that the issue of racial profiling does not solely apply to officers participating in 287g, but all officers who have the ability to bring arrestees to a jail with 287g or SCOMM capacity. These officers know that unauthorised immigrants

who are detained can be deported, regardless of whether or not they committed a crime. Scholars have argued that this situation creates de facto immigration officers in the field who may not understand complex immigration law (Varsanyi et al., 2012), thereby placing them at risk for racial profiling. One study of the Davidson County, Tennessee jail found that 287g officers view their role as 'objective administrators', thereby identifying and processing all undocumented immigrants for deportation who come into the jail (Armenta, 2012). These officers may feel guilty for processing undocumented immigrants with minor infractions, but do not believe they have the authority to release these individuals.

## Methods

This study examined the implementation of the 287g Program from 2006 to 2010 in two neighbouring local jurisdictions in the south-eastern US state of North Carolina, a place that has experienced one of the largest nationwide increases in its Hispanic and immigrant populations since the 1990s. The two jurisdictions, Alamance County and Durham City, were chosen for their contrasting implementation models, operational priorities and local context of reception for immigrants (e.g. political perspectives on immigration). See Figure 1 for a map of Alamance County and Durham City.

We employed qualitative research methods to examine the implementation of 287g in these two jurisdictions. Our qualitative methods included participant observation, field research, face-to-face interviews with key informants, focus groups and archival research of public documents. Our participant observation included living in Alamance and Durham Counties, participating in public meetings and community events related to immigration policy during the study period, experiencing traffic



**Figure 1.** Map of Alamance County and the City of Durham, North Carolina.

checkpoints policed by several different local law enforcement agencies as well as the NC State Highway Patrol (a total of four checkpoints from 2007 to 2009), and conducting visits to prisons in both sites to understand the processing of individuals through the 287g Program. The participant observation allowed us to gain a deep understanding of the motivations for the program, differing viewpoints about the program, and how the issue of local immigration enforcement has been framed and politicised over time. It also provided us with a first-hand experience with how unauthorised immigrants are identified through the program.

Between February 2007 and December 2010, we conducted 60 in-depth, face-to-face interviews with immigrants of Latin American origin, immigrant advocacy organisations, local public officials, law enforcement officers, county residents and local businesses owners. Because of the sensitive nature of this research topic, we developed trusting relationships with immigrant service and advocacy organisations in Alamance County and Durham City that served as ‘gatekeepers’ to the immigrant communities.

We also identified key stakeholders that might offer diverse perspectives on the topic. These interviews were semi-structured, asking questions about program purpose, understanding of program operation and impact on residents, particularly immigrant families. Each interview lasted between 45 minutes and 2 hours and was conducted in the respondent’s location and language (English or Spanish) of choice. While some respondents allowed us to record the interviews, many were uncomfortable with us doing so, for reasons that included fear of disclosing immigration status. In those cases, extensive notes were taken during and immediately after the interviews. We reviewed our recordings and notes to identify reoccurring themes. We also worked with immigrant-serving organisations to conduct three focus groups with a total of 28 individuals between October 2007 and January 2008 when there was much interest about expanding the program to a large number of jurisdictions in North Carolina to learn about immigrants’ understanding of how the program was implemented and perceptions of the program’s utility.

To triangulate data from our participant observation, interviews and focus groups, we conducted archival research of public records (e.g. county commissioners and city council meetings), newspaper articles and online video recordings of public meetings. While we do have a few interviews of local elected officials and law enforcement officers, it was very difficult to obtain consent of law enforcement officials, ICE or local elected officials who support the 287g Program to be interviewed because of the controversial and political nature of this topic. Our archival and secondary sources allowed us to examine public comments and perspectives made by these individuals.

We also requested arrest data through the Freedom of Information Act from the Alamance County Sheriff's Office and the Durham Police Department. These data indicate the type of crimes that unauthorised immigrants in the 287g Program are charged with and provides quantities of felonies and misdemeanours. The data do not classify each individual crime by felony or misdemeanour.

### *Contextual and programmatic differences: Alamance County and the City of Durham*

The central Piedmont county of Alamance in North Carolina has experienced increased economic development and demographic change over the past 30 years. Recent local government interest in immigration has focused largely on Hispanic migrants, the largest immigrant ethnic group in the county. Hispanic migrants (primarily of Mexican origin) first came to the county as recruits for agricultural work in the 1970s and later found employment in textiles, construction and retail. In 1990, there were roughly 722 Hispanic residents in Alamance County, which was less than 1% of the county's 108,213 residents (see Table 1). By 2010, the Hispanic population in Alamance

increased 2205%, reaching a population of 16,639, more than 11% of the total population.

The City of Durham is also located in the central Piedmont region 35 miles east of Alamance County. With a population of 228,330, the city ranks fifth largest in the state and is more than 50% larger than Alamance County (US Census Bureau, 2010). Durham is located in a metropolitan area with high population density, relative to other areas in the state. Historically and presently, Durham's demographic composition contrasts with Alamance: in Durham, white and African-American residents make up roughly equal percentages of the population (42.5% and 41%, respectively, in 2010) (see Table 1). White residents in Alamance make up the overwhelming majority of the county's population (71% in 2010). While both white and African-American populations have increased over time in Durham, Hispanic population growth has far outpaced both groups. Between 1990 and 2010, the Hispanic population increased by 1794.9%, from 1713 to 32,459. Today, Hispanics represent roughly 14% of the total population in Durham. In response to the rapid growth in the Hispanic population since the 1990s in both of these places and around the state, there has been significant public dialogue and concern regarding immigration. Thus, when immigration is discussed, it is largely directed at Hispanic immigration.

We chose these two sites to study for their contrasting implementation models and contexts of reception toward immigrants. In Alamance County, reception of immigrants has been largely negative: local elected officials have passed a series of anti-immigrant resolutions and actions since 2001 and have been outspoken about the perceived negative impacts of a growing Hispanic population (Gill, 2010). By contrast, elected officials in the City of Durham (who report to more

**Table 1.** Population, race, and ethnicity, Alamance County and City of Durham, 1990, 2000, 2010.

	1990	2000	% change 1990–2000	2010	% change 2000–2010
Alamance County					
Population	108,213	130,800	20.9%	151,131	15.5%
Race					
White	86,130	94,679	9.9%	107,420	13.5%
African-American	20,767	24,338	17.2%	28,369	16.6%
Asian	237	1153	386.5%	1837	59.3%
Other	357	1871	424.1%	9291	396.6%
Hispanic-origin					
Hispanic	722	8759	1113.2%	16,639	90.0%
Non-Hispanic	107,848	122,041	13.2%	134,492	10.2%
Foreign-born population	1170	8281	607.8%	10,996	15.5%
Population	136,594	187,183	37.0%	228,330	22.0%
City of Durham					
Race					
White	69,564	79,346	14.1%	96,932	22.2%
African-American	62,221	81,157	30.4%	93,517	15.2%
Asian	2676	6509	143.2%	11,574	77.8%
Other	420	4249	911.7%	18,914	345.1%
Hispanic-origin					
Hispanic	1713	15,922	829.5%	32,459	103.9%
Non-Hispanic	134,881	171,261	27.0%	195,871	14.4%
Foreign-born population	5205	22,544	333.1%	33,099	46.8%

Sources: American Community Survey (2006–2010); US Census Bureau (1990, 2000, 2010).

racially and ethnically diverse constituencies) have passed welcoming resolutions towards immigrants in recent years. Evidence of these motivations can be found in the program’s focus in each locality as shown in Table 2. In Durham, the police department has focused their efforts strictly on criminal violations, whereas in Alamance, the sheriff’s office has pursued both civil and criminal violations. We elaborate more below on how the local political contexts shape the adoption of the program in each jurisdiction.

Among the nine jurisdictions that adopted 287g in North Carolina, Durham was the only city to do so. All other 287g partnerships in North Carolina, including in Alamance County, were adopted by a county sheriff’s office. The City of Durham adopted a task force model, calling upon a trained bilingual officer to investigate serious crimes involving unauthorised immigrant suspects. Under the task force model, this officer can check the immigration status of suspected criminals before they are taken to jail.

Alamance County adopted a different model for its 287g Program known as the jail model, which authorises officers to check immigration status only *after* an individual has been arrested. Once in jail, if arrestees do not have official government identification and are suspected of unauthorised immigrant status officers can access a federal immigration database to determine immigration status. When the program started, the Alamance County Sheriff’s Office (ACSO) trained 12 officers based in the jail. SCOMM is most similar to the 287g jail model.

**Alamance County: Furthering an anti-immigration agenda through 287g**

In the decade before the adoption of 287g in 2006, immigration emerged as a divisive issue in local politics in Alamance County.

**Table 2.** Differences in 287g implementation models and context.

	287g model	Home agency	Trained officers	Local political context	Motivation	Program focus
City of Durham	Task Force	Police Department	1	'Sanctuary City'	Crime control	Criminal violations
Alamance County	Jail	Sheriff's Office	12	Anti-immigration	Anti-immigration and crime control	Civil and criminal violations

Several local officials pushed an agenda to halt immigration to the county, claiming that immigrants were draining fiscal resources and trafficking drugs to the county. For example, county commissioners voted 4 to 1 to create an 'Illegal Alien Task Force' in 1995 to investigate what the county could do to curb immigration. In September of 1997, commissioners unanimously approved a resolution to recommend a moratorium on immigration to the county (personal communication, June 2008). Notably, the moratorium applied to all immigrants, not just unauthorised migrants, making it more symbolic than legally enforceable. In 2002, Terry Johnson, a retired agent with the State Bureau of Investigation, was elected to his first term as Alamance Sheriff with promises to reduce crime and unauthorised immigration. Soon after election, sheriff's deputies raided the Division of Motor Vehicles and arrested more than 100 Hispanics on charges of using forged documents to acquire driver's licenses (Anonymous, 2004).

In 2003, the County invested in building a new jail to meet federal standards so that it could be authorised as a regional detention centre, with the capability of being leased by the US Marshall's Service and ICE to house federal inmates and immigration detainees from other counties. The provision of detention space for federal immigration detainees was regarded by public officials as both a way to facilitate the deportation of more unauthorised immigrants and an important source of revenue for the county (personal communication, June 2008; Lavender, 2011). Alamance County Commissioners passed a resolution to adopt 287g in 2006, and the program was eventually implemented by the Alamance County Sheriff's Office in February of 2007 (Alamance County Board of Commissioners, 2006). Alamance's motivations for adopting the 287g Program relate to demographic change and a Board of

Commissioners with an anti-immigration agenda, which is consistent with nationwide trends according to Wong (2012).

### *Durham, North Carolina: Implementation of 287g is consistent with the federal mandate*

The City of Durham, in many ways, has provided a more welcoming reception for immigrants than Alamance County. The city is home to more than a dozen immigrant-rights organisations, advocacy groups and non-profits that directly serve the Hispanic community. Furthermore, local officials have taken a much different public approach to creating a more supportive environment for immigrants. For example, in October 2003, the Durham City Council voted in favour of a resolution which affirmed the city's commitment to respecting the human and civil rights of individuals regardless of race, ethnicity or immigration status (City of Durham, 20 October 2003). Durham Mayor William Bell stated that one of the primary purposes of the resolution was to prohibit public employees from asking individuals about their immigration status. In June 2010, city council members voted 6 to 1 to suspend travel by Durham public officials to the state of Arizona in a symbolic protest of SB 1070, a statewide bill that would allow law enforcement to request proof of immigration status when they are working in the field. During the same meeting, Mayor Bell urged President Barack Obama to pass federal immigration reform that could discourage other states from passing Arizona-style immigration legislation (City of Durham, 21 June 2010). Mayor Bell stated that forcing individuals to prove immigration status is 'a step back into the past of segregation' (Gronberg, 2010a). In the same year, the city council voted to allow the Matricular Consular, an identification card issued by the Mexican government to be valid in the

City of Durham, an act which signalled that local public officials are actively working to integrate rather than marginalise immigrants (Gronberg, 2010b). In this way Mexican nationals could verify their identity when encountering police officers and other public agency staff.

Upon adoption of 287g in February 2008, Durham Police Chief Jose Lopez assured the public and immigrant-rights supporters that the program would be used to identify and deport undocumented immigrants who had committed serious crimes. He went further, though, in his assurances, issuing a general order that prohibits police officers from investigating civil immigration violations in workplaces or elsewhere (Upchurch, 2009). Seeking to gain the trust of immigrant groups, Lopez engaged in a number of community events emphasising equal treatment by police. At one event he told a group, 'If you are a citizen of Durham, we will give you all the rights and services of a citizen, whether you are from South Carolina or Mexico' (Upchurch, 2009) and he also tried to explain the differences in how 287g is implemented in the City of Durham and Alamance County.

Captain Ray Taylor, the officer in charge of supervising and monitoring the 287g Program in Durham, stated that the MOA between the Durham Police Department and ICE was very clear in describing that the role of the 287g trained officer is to focus on investigating serious or violent crimes, such as those that involve, '... gang activity, homicide, aggravated assault, armed robbery, identity theft, and illegal firearms possession' (personal communication, 5 May 2009). According to Taylor, having only one trained 287g officer who focuses on serious and violent crimes is a safeguard, making it nearly impossible for any one officer to abuse their power and deport individuals for immigration violations (personal communication, 5 May 2009). The Durham Police Department's more recent adoption of

SCOMM, which expands their capacity to check the immigration status of all arrestees once processed in jail, calls into question whether this 'safeguard' is still effective.

### **Arrest data reveals programmatic differences**

Examining the arrest data for the 287g Program in the two jurisdictions also offers insights into the contrasting local implementations of the program. In Alamance County, the program identifies immigrants who have committed both civil and criminal violations, while in the City of Durham, the program has been used to target criminal violations. The arrest data for individuals processed through 287g in Alamance County provides some explanation for immigrants' widespread fear of deportation and anxiety about driving. From 19 February 2007 to 31 May 2011, the arrest data from the Alamance County Sheriff's Office indicated that 2109 unauthorised immigrants were interviewed under the 287g Program with 1622 eventually processed for deportation (see Table 3).

As shown in Table 3, the types of crimes that individuals were charged with under 287g varied widely. Notably, almost 40% of the charges were traffic-related offences, which include driving with a broken taillight or making an illegal turn, which are considered infractions and not crimes per se. The second highest category of charges was driving while intoxicated (DWI), representing 14.1% of all charges. The third most frequent charge (10.7%) involved drug-related offences, which can range in severity from possession of small amounts of drugs to drug trafficking. All other categories of state charges, including violent crimes, had very low incidence rates. When severity of charge is considered, a significant majority of the charges, 80.4%, were misdemeanours (see Table 4).

**Table 3.** State charges for 287g Program, February 2007 to May 2011, Alamance County Jail.

	Processed for deportation	
	Number	Percentage
Individuals interviewed 2109	1622	76.9%
State charges	Number	Percentage
Driving while intoxicated	377	14.1%
Drugs	287	10.7%
Robbery	5	0.2%
Sex crimes	44	1.6%
Assault	128	4.8%
Domestic violence	93	3.5%
ICE arrest	53	2.0%
Traffic	1042	38.9%
Fraud	119	4.4%
Alcohol/drunk and disorderly	31	1.2%
Theft/larceny	67	2.5%
Breaking and entering	18	0.7%
Trespass	12	0.4%
Resist	0	0.0%
Murder/attempted murder	1	0.0%
Weapons <sup>1</sup>	16	0.6%
Other	384	14.3%
Total	2677 <sup>2</sup>	100.0%

Notes:

<sup>1</sup>Weapons charges were only counted starting in May 2009.

<sup>2</sup>The number of charges exceeds individuals interviewed because more than one charge can be levelled against an individual.

Source: Alamance County Sheriff's Office (2011).

Although the mandate of the 287g Program from the US Department of Homeland Security (DHS) is to target unauthorised immigrants committing serious and/or violent crimes and allow for their identification, arrest data illustrate that Alamance public officials used it as a tool for greater identification of all unauthorised migrants, an outcome favourable for leaders with broader goals of reducing immigrant settlement into the county. One former

**Table 4.** 287g charges by severity, February 2007 to May 2011, Alamance County Jail.

Severity of charge <sup>1</sup>	Number	Percentage
Misdemeanours	2014	80.4%
Felonies	491	19.6%
Total	2505	100.0%

Notes: <sup>1</sup>Some of the 2677 charges do not fall within the misdemeanour or felony classifications. For example, traffic infractions are neither a misdemeanour or felony. Source: Alamance County Sheriff's Office (2011).

Alamance County Commissioner explained why he supports the program: '287g 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' (personal communication, June 2008).

The state charge data for individuals processed through Durham's 287g Program confirm Captain Taylor's assurances that the police department focuses on identifying serious criminals as opposed to minor offenders (see Table 5). From February 2008 to April 2011, only 430 individuals were interviewed through the program and among those, 106 (or 24.7%) were processed for deportation from the country, as shown in Table 5. All 106 individuals were charged with felonies and/or violent crimes or have violated federal law. While Durham has a sizeable number of immigrants, the number of individuals processed through 287g was substantially lower in the first 38 months of operation than all the other jurisdictions in North Carolina with a 287g partnership, even those with substantially smaller immigrant populations, such as Gaston and Cabarrus counties. The different implementation styles are particularly striking when the number of individuals interviewed and eventually processed for deportation is compared with Alamance County (which deported 76.9% of individuals interviewed).

**Table 5.** Charges or status for individuals interviewed through the 287g Program, February 2008 to April 2011, City of Durham.

Charges/status	Description	Number
Individuals interviewed	Total number of individuals interviewed about immigration status by a 287g Task Force Officer	430
Processed for deportation	Paperwork submitted for deportation pending a ruling by an immigration judge	106
Detainers lodged	Paperwork submitted to hold an individual to be processed for deportation	86
Federal prosecutions initiated	Violation of federal law, such as possession of a firearm by an unauthorised immigrant	30
Aggravated felons	Violent felonies such as aggravated assaults	14
Prior convictions	Prior conviction of at least two felonies or aggravated felony	28
Re-entry	Individual was deported previously as a result of a felony or a serious crime and has re-entered the country	5
Deportation order pending	A judge has ordered deportation and deportation is pending, perhaps because of an appeal	20
Gang contacts	A validated gang member; must be validated using a number of criteria	81
Immigration investigations initiated	An investigation initiated because of immigration law violation, such as when an unauthorised immigrant is involved in human trafficking	98
On site arrests	Officer is in the field and arrests an unauthorised immigrant, usually resulting from serious crime such as aggravated assault	11

Source: City of Durham Police Department (2011).

Examining charge and status data from the City of Durham’s 287g Program supports the assertion that the way that the program was implemented in the city from 2008 to 2011 matched the federal government’s mandate for the program, which is to focus on serious and violent crimes.

### 287g adoption in Alamance County

Our research in Alamance County revealed that the adoption of 287g had consequential organisational and community impacts including the alteration of law enforcement practices, the creation of a chill effect, and changes in the perception about the role of

law enforcers. We provide more detail about each of these below.

#### Law enforcement practices

It was evident in Alamance County that the adoption of 287g enabled law enforcement officers to increase scrutiny of Hispanic communities. For example, law enforcement officials began to organise traffic check-points to check for appropriate operator’s licences. Soon after the program began, interviewees reported that traffic check-points routinely appeared in front of a field where Mexican and Salvadorian migrants play soccer on a weekly basis. Three church pastors with Spanish-speaking congregations

reported the presence of traffic checkpoints near their churches on Sunday mornings, which resulted in a decrease in attendance. Some interviewees also reported that law enforcers checked drivers *and* passengers for licences to determine immigration status. Other abuses of power were also reported. For example, an Hispanic female reported an encounter with a law enforcement officer that walked into her workplace (a Hispanic-owned grocery store in the city of Graham):

I was standing behind the counter, and a police officer came into my store and asked to see identification. I told him I did not need to provide a driver's license if I was not driving. So he waited outside until I finished my shift and got into my car to go home, and then stopped me.

This example suggests that even though Alamance County officially adopted a jail model, officers *in the field* also attempted to identify unauthorised immigrants. While conducting traffic checkpoints is not an abuse of power, intentionally targeting Hispanic individuals, neighbourhoods or institutions can be considered racial profiling. Furthermore, asking for identification without just cause is an abuse of law enforcement powers.

A 2011 US Department of Justice (DOJ) investigation into the Alamance County Sheriff's Department also supported our findings of targeting Hispanics and law enforcement's abuse of the 287g Program. The DOJ's investigation found that '[sheriff's] deputies were between four and 10 times more likely to stop Latino drivers than non-Latino drivers' along three major county roadways in Alamance County (US Department of Justice, 2012).

### *Chill effect*

A number of key informants we interviewed described how immigrants – regardless of

legal status – became reluctant to leave their houses or drive anywhere due to fear of encountering police, thus creating a 'chill effect'. With no public transportation system, some unauthorised immigrants in Alamance continued to drive without licences, thereby being subject to arrests. Others reduced their driving and walked when they needed to. But overall, public activity decreased in immigrant neighbourhoods. An immigrant from Mexico said, 'People walk everywhere now ... the situation is really bad here'. A healthcare provider at a local clinic reported that Hispanic patients were missing appointments, or not bringing their children to appointments, out of fear of being stopped by police. According to a staff member, the local immigrant resource centre, normally a busy centre of activity, saw its client load decrease the first summer after 287g.

Another indicator of the 'chill effect' was a decrease in economic activity. On Webb Avenue in the city of Burlington, where Hispanic small businesses are concentrated, our interviews with 15 business owners revealed that all had lost revenue in the months after the adoption of 287g. Nearly all business owners attributed losses to less shopping activity by Hispanics, and more than 50% cited law enforcement's increased focus on Hispanics as contributing to decreases in consumer activity. An employee at a local Wal-Mart in an Hispanic neighbourhood attributed lower sales volume during May–July of 2007 as a result of the 287g Program. Over the next three years, as checkpoints increasingly appeared and Hispanics were stopped and questioned about their immigration status, travel delays began to affect local industries as well as individual workers. Some suppliers decided that it was not worth travelling to Alamance County to conduct business because the unanticipated stops by law enforcement affected delivery delays.

### *Changes in perceptions of the role of local law enforcement*

Another theme that emerged from our interviews relates to the changing perceptions about the role of local law enforcement officials after the implementation of 287g. Out of 25 Hispanics interviewed, 23 stated that participation in 287g in Alamance County decreased their trust in local law enforcers because of their new role as 'la migra' or immigration agents. When asked about crime-reporting practices, the majority of Hispanic interviewees stated that they would hesitate before reporting crime to authorities out of fear that a friend, neighbour or family member might be placed in danger of deportation. When asked why, several individuals related personal experiences or newspaper reports revealing the broad reach and, at times, abuse of the program. Example of cases publicised in the media (e.g. Spanish language newspapers) that were recounted by our interviewees included the arrest of an Hispanic gunshot victim who was deported after calling 911 (Abernethy, 2008); the arrest of five Hispanic men for fishing without licence by a Wildlife Enforcement Officer, who were taken to jail and later processed for deportation (Rivas, 2008); a Hispanic minor arrested in a local public school for an alleged prank (Flores, 2008); a US citizen mistakenly deported (Collins, 2009); the investigation by law enforcement officials of local health clinics using patient records to identify unauthorised immigrants (Anonymous, 2008); and the detention of three children for eight hours after their mother was taken from the arrest site by an Alamance County Sheriff's Deputy (Collins, 2008).

Stories of program abuses spread widely through word of mouth and newspaper reports and may fuel fear of law enforcement. One result may be the mistrust of law enforcement, as evidenced by this statement from an immigrant of Mexican descent: 'The

police are terrorizing us. No one wants to call if they have been the victim of a crime'. In 2014, during the lawsuit in which the US Department of Justice sued the Alamance County Sheriff's Office for alleged racial profiling, a number of witnesses provided testimony regarding deputies' routine use of racial slurs towards Hispanics, circulation of racist video games in which the player shoots 'wetbacks' crossing the border, and directives from the sheriff to arrest Hispanics instead of issuing citations after the 287g Program was implemented (United States of America v. Terry Johnson, 2012).

Growing distrust of law enforcers was not only prevalent among unauthorised immigrants, but also among the larger Hispanic community, who are often members of mixed-immigration status families. Even legal permanent residents expressed reluctance in reporting crime because of the fear of bringing police to their neighbourhood and exposing their relatives, friends or neighbours who may be unauthorised. As one legal permanent Hispanic 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'. Hispanic interviewees also reported rising levels of victimisation, with over half of Hispanics interviewed reporting that they or their family member had been a victim of crime, with robbery and muggings as the most common crime. The combination of being more exposed while walking (because of fears of detection by police while driving) and criminals' knowledge that immigrants are afraid to report crime may lead to greater vulnerability to crime and fear of victimisation. An owner of a bakery that sold Mexican pastries in Alamance County explained this predicament:

When 287g started, I'd see my customers stop driving here to get their bread each day. They started walking instead, because they don't have licenses. Or they just stop coming, which

is terrible for my business ... Do you know how vulnerable people are now? I had a customer last week who was walking here with her three little kids, and got mugged by a car that pulled up to them. She had nowhere to go. She didn't have any money left to buy bread by the time she got here. Did she report that crime to the police? Of course not.

The expansion of immigration enforcement has negatively impacted other community relationships, including those between neighbours, workers and employees, and tenants and landlords. Public knowledge that immigration status will be checked at the local jail enables a wide range of individuals to initiate the process of deportation. An Hispanic male recounted an incident when the police showed up at his residence and questioned his legal status after a neighbour had reported 'suspicious activity'. A professional photographer, he described how he had been photographing a sunset on his roof. A textile worker spoke of how her wages were cut and rights such as bathroom breaks were suspended after 287g was implemented. When she complained, she was fired. 'They fired me ... and didn't pay me for the last week that I worked. Why is that? We can't say anything; we can't speak out'. A social worker described how Hispanics at an apartment complex in the city of Burlington were threatened that they would be 'reported' to authorities when they complained about bug infestation, water leaks and other unsafe housing conditions. Alonzo et al. (2014) found that the implementation of immigration enforcement policies such as 287(g) and Secure Communities in Alamance County 'was exacerbating anti-immigrant tensions and creating an environment where discrimination and racial profiling were increasingly more prevalent' (p. 9). In a 287g jurisdiction where everyone can participate in immigration enforcement by calling law enforcement, unauthorised immigrants may be afraid to fight against discrimination or

abuse and become more vulnerable to mistreatment.

### **The City of Durham after the adoption of the 287g**

Unlike Alamance County, Durham's 287g Program focused solely on serious, violent or gang-related crime and limited the ability of officers in the field to participate in the program. The limited number of police officers assigned to 287g (one field officer and one supervisor) also resulted in a more focused program. All unauthorised immigrants that were deported through the 287g Program in Durham were charged with a felony offence. There were no arrests or deportations resulting from misdemeanour arrests or civil immigration violations. Before implementing the 287g Program, the chief of police and local elected officials in Durham took steps to reach out to immigrant communities and build trust through passing a number of pro-integrative local resolutions. During a city council meeting, elected officials made a statement that the 287g Program was not to be used for civil immigration enforcement.

Despite these measures, however, there is evidence that the program, directly and indirectly, has led to increased mistrust and fear of police among immigrants. In terms of direct impacts, knowing that the police department has additional powers to deport undocumented immigrants may have harmed police-community relations. Our interviews revealed that knowing that there is the possibility of deportation by local law enforcement undermines community-police relations. Many immigrants in Durham are sceptical of police and do not trust them even though there has been much effort to build trust between community members and police.

The fear of police is expressed in this statement by an Hispanic resident in Durham, 'It's like we are cockroaches that

they trap. They turn on the light and we hide ourselves ...' (translated from Spanish) (Smith-Overman, 2009: 7). In reference to the Durham Police, another Hispanic individual commented, 'They stop you and they say, this is the guy, they stop you even though you went the [speed] limit, you have a license plate, you have everything, they stop you just because you are Hispanic' (Smith-Overman, 2009: 30)

The 287g Program's negative reputation in other places, such as Alamance County, has harmed relationships between the police and immigrant community in Durham. Chief Lopez directly addressed this problem: '... it's hard for them [immigrants] to understand the fact that the City of Durham is not like Alamance County or other police departments in how it handles 287g' (Upchurch, 2009). This fear, induced partly by how other agencies implement the program, a lack of transparency and checkpoints such as those described above, undermines efforts to ensure that the program will not target unauthorised immigrants who have not committed a serious or violent crime.

## Discussion

The expansion of 287g and other similar programs has resulted in what Varsanyi et al. (2012) have called a multilayered jurisdictional patchwork in which the implementation models vary and adoption across the country is uneven. Our study of two neighbouring jurisdictions in North Carolina, a new destination state for immigrants, offers a street-level view of what happens to communities when immigration enforcement powers are expanded to localities and addresses important questions about the program's impact on immigrant families and local communities.

Our study shows that jail models of immigration enforcement, such as 287g and

SComm, can have far-reaching consequences for local law enforcement practices and marginalising immigrant families. In our study, the ambiguity about the role of law enforcement after the adoption of 287g and fear of deportation have affected immigrants in a number of ways, including civic engagement, access to services and perceived vulnerability to crime. Furthermore, immigrant businesses have experienced a disruption in economic activity and immigrants report greater exploitation by employers and landlords. These are social and economic concerns relevant to the entire community, not just immigrants.

In Alamance, the combination of local officials' anti-immigrant attitudes and the mobilisation of police mechanisms that increase contact with immigrant populations in routine daily activities, created the possibility – and the normalised expectation – that any unauthorised person can be deported. The knowledge that immigration status will be checked at the local jail enabled a wide range of individuals the authority to initiate the process of deportation, including public officials, law enforcers, public employees *and* the community at-large.

In Durham, a city often considered a sanctuary for immigrants, and where 287g is limited to pursuing serious and violent crimes, the impacts to the immigrant community resemble those in Alamance County. Many immigrants living in Durham do not understand that the Durham Police Department's 287g implementation style has been different from all other agencies throughout the state of North Carolina. Moreover, knowledge about specific cases of police abuse or human and civil rights violations from other jurisdictions have had damaging effects on police-immigrant relations in Durham. Durham police officials have admitted that negative effects from other programs make their work with the immigrant community more challenging.

## Future directions for interior immigration enforcement

Currently, the 287g Program is being replaced by SComm, a local interior enforcement strategy in the process of nationwide implementation that closely resembles the 287g jail model. As of 22 January 2013, the biometric information sharing capability of SComm was activated by ICE in 3181 jurisdictions in 50 states, US territories and Washington DC (ICE, 2014a). SComm is envisioned by the federal government as more uniformly implemented, with less opportunity for racially biased discretion than 287g because every individual that is booked into jail is fingerprinted. The findings in this paper and elsewhere, however, show that the realities on the ground are likely to differ from the federal government's expectations for the implementation of SComm (Waslin, 2011).

As Provine et al. (2012) aptly point out, we are experiencing unprecedented levels of migration flows of unauthorised migrants around the globe and thus, how interior immigration strategies are handled has global importance. The findings from this study suggest a number of ways in which interior immigration enforcement strategies could be better improved to harness the capacity of state and local law enforcers to improve public security and safety while limiting the fear and harmful consequences to communities. First, greater scrutiny should be taken before and after an agency is granted enhanced immigration enforcement authority. Agencies with histories of racial profiling or human and civil rights abuses should not be given greater immigration enforcement authority. It is unclear how thoroughly ICE vetted individual jurisdictions before implementing SComm nationwide. In the case of Alamance County, despite public complaints of racial profiling under 287g, ICE activated SComm in 2010. In 2012, a US Department

of Justice investigation found evidence of discriminatory policing against Hispanics, which prompted ICE to revoke the 287g Program and restrict Alamance County law enforcements' access to SComm.

In terms of federal scrutiny applied to local jurisdictions currently implementing 287g and SComm, the federal government needs to effectively 'police the police' (Stuntz, 2002). In other words, there need to be penalties for state and local enforcers who abuse their powers, engage in racial profiling and fail to protect all residents from harm, regardless of their immigration status. ICE and the Department of Homeland Security's have set up some measures to address program abuses (US Department of Homeland Security, Office for Civil Rights and Civil Liberties, 2014) but to date, the consequences of program abuses have been long-term investigations and lawsuits, as in the cases of Maricopa County, Arizona, and Alamance County, North Carolina. It is unclear how effective these measures are in deterring and changing abusive and discriminatory practices.

Because of the limitations of the federal government in policing, monitoring and even cognisance of local-level variations in the implementation of local immigrant enforcement programs, greater scrutiny should be applied at the local level. Advisory or oversight boards comprised of community members not affiliated with law enforcement may be one way to check on local abuses of authority. Concerned about the social costs of these programs, a growing number of municipalities and states have attempted to 'opt out' of the SComm programs, or refuse to participate by denying ICE's requests to hold people convicted or charged with minor crimes in local jails until federal authorities can deport them.

Our research contributes to the growing scholarly knowledge on internal immigration enforcement by describing the

motivations for and the variations in how the 287g Program is implemented in the field and the effects of the program on communities. Our study supports Coleman's (2012) assertion that a jail-based model of immigration enforcement, such as 287g and SComm, greatly expands the geographic scope and reach of interior immigration enforcement because any officer working in a jurisdiction with a jail-based model can be an immigration enforcement officer. Furthermore, similar to Provine et al.'s (2012) survey of police chiefs around the country, we find in our two case study sites that there is much variation in how interior enforcement programs are implemented and how much discretion local law enforcers have in making decisions in the field, thus granting individual officers much power over immigration enforcement.

The presence of the 287g Program, SComm and other interior immigration enforcement programs, as well as the uncertain future of federal immigration reform, indicates that subfederal agencies will become more involved in interior immigration enforcement in the future. As such, the federal government needs to have a clearer and more consistent interior immigration strategy, provide more education to eliminate abuses of the program, implement effective strategies to deter program abuses, and provide more oversight and monitoring at the local level to identify when problems or abuses arise.

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