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Local Administration of Federal Immigration Policies: A Comparative Analysis of Arkansas's Participation in 287(g) and Secure Communities[1]

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Immigration has traditionally been viewed as a federal issue, but recent federal policies have delegated some immigration duties to state and local law enforcement agencies. These policies have blurred the distinction between federal and state responsibilities and between immigration and traditional criminal justice enforcement. We discuss local immigration enforcement through the lens of social construction theory, which argues that policy outcomes are often explained by the policy's affected population. Using multi-factor analysis of variance testing, we then compare the participation of Arkansas jurisdictions in the local-federal partnership programs 287(g) and Secure Communities to jurisdictions in neighboring states. We find that these federal-local partnerships have overwhelmingly been applied to non-criminal immigration offenders–especially in Arkansas–despite the claim that they were created to target dangerous criminal aliens

Introduction

The role of states in immigration enforcement has become an increasingly popular topic following the adoption of state-level immigration laws such as the ones in Arizona and Alabama. While state-level laws have been popular topics of discussion, however, local application of federal laws has only recently received attention from scholars (e.g., Coleman 2012). This is surprising, considering that local administrators are considered by many to be the most powerful actors in the policy process (Lipsky 1980; Muir 1979) and that views on immigration often reflect community political and economic conditions (Provine and Varsanyi 2012). Federal programs such as the 287(g) program and Secure Communities are two initiatives that enhance the role of local administrators with respect to immigration policy.

This study discusses immigration policy creation and enforcement through the lens of social construction theory, which argues that a policy's

[1] We would like to thank Brinck Kerr, with the University of Arkansas Public Policy Program, for his help with this project.

affected target population can predict the policy's design and enforcement (Schneider and Ingram 1988). We compare the implementation of 287(g) and Secure Communities in Arkansas jurisdictions to that of jurisdictions in surrounding states. We are specifically interested in determining what types of immigrants are most affected by these policies and if Arkansas's participation is similar to the rest of the region. We use analysis of variance testing on county-level data collected from 369 jurisdictions from October 27, 2008 through April 30, 2011. Our findings confirm those of prior studies, which have concluded that non-criminal immigrants and those charged with low-level offenses are most affected by these programs (Branche 2011; Capps et al. 2011). Interestingly, while non-criminals are disproportionately affected by these programs in most states, Arkansas has even higher levels of non-criminal arrests and deportations than surrounding states.

Social Construction Theory and U.S. Immigration Policy

Social construction theory states that a policy's design and target populations can be used as predictive variables in the policy adoption and implementation process (Schneider and Ingram 1988). Social construction builds off Lowi's (1972) contention that policy predicts politics through the distribution of burdens and benefits. Social constructionists carry Lowi's argument a step further by contending that a policy's design (primarily who is affected by it) influences its adoption. The design of the policy sends a message to the public and affects participants' orientation and actions in the policymaking process. Target populations are classified along a four-fold typology with political power running along the vertical axis and public image along the horizontal. Groups with high power and image are "advantaged" (e.g., small businesses and middle class homeowners); groups that possess high power but low image are "contenders" (big business, unions, and powerful public interest groups); populations with low power and high image are "dependents" (single mothers and the poor); and those with low power and image are deemed "deviants" (criminals and terrorists) (Ingram, Schneider, and deLeon 2007).

Elected public officials are under strong pressure to pass policies that provide benefits to the positively constructed populations and burdens or punishments to negatively constructed groups. Burdens placed on high-power populations (e.g., increased taxes on business owners) will cause these groups to mobilize their resources (which are not available to dependent and deviant populations) and retaliate by impeding the policy's implementation or pushing for its repeal. Newton (2005) argues that "the

debates over immigration reform from 1994-1996 constructed immigration as a problem and constructed immigrants as parasitic, at best, and at worst, as deviants" (164). These negative images, she notes, provided justification for punitive immigration policies.

Social constructionists explain that targeting individuals for punishment through policies is more prevalent in democratic societies than is usually acknowledged (Ingram and Schneider 1993). And, of course, powerless groups offer easy scapegoats for societal problems. Baker (1993) classifies illegal immigrants a deviant group, lacking power and a positive public image. Given their deviant image, it is little surprise that undocumented immigrants face burdens such as mass deportations following economic downturns. Joblessness, it seems, can easily be blamed on a porous border. The social inequality of specific groups is an integral component of social construction theory, and is a possible explanation for variations in local application of U.S. Immigration and Customs Enforcement (ICE) polices.

Social construction theory has been used to explain the creation and enforcement of prior immigration policies. Yanow (2000), for example, emphasizes that "U.S. immigration policy is clearly instrumental: it is designed to regulate the number and type of people allowed into the United States" (89). Ingram and Schneider (1993) use the lens to argue that the Immigration Reform and Control Act (IRCA) of 1986 gave amnesty to millions of longtime undocumented immigrants because removal was not only impossible but also politically impractical. Baker (1993) argues that the IRCA's legalization program was a necessary trade-off to increase the role of law enforcement in immigration. She specifically notes that the law's heavy emphasis on restrictive eligibility standards reflect the traditional social construction of immigrants as deviants toward whom benefits are only "to be conferred only as a matter of last resort" (1993, 143). Despite the claim that the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 was designed to crack down on immigrant criminals, the law also penalizes non-criminal immigrants (Newton 2005). Furthermore, in order to make legal permanent residents and other immigrants removable for minor crimes, the IIRIRA has expanded the definition of an "aggravated felony," which allows for the deportation of immigrants who have already served time – even for crimes that were not deportable when they were committed (Branche 2011).

287(g) and Secure Communities

Changes in immigration policy are often the result of larger societal problems that sometimes have little or nothing to do with immigrants. Newton (2005) described how movements to create stricter immigration rules generally appear during times of economic downturns, when there is a strong fear that immigrants are taking jobs from Americans. Recent immigration policies seem to reflect efforts during the 1980s and 1990s to shift more federal implementation responsibilities to local governments and post-September 11 concerns over security. While historically immigration has traditionally been viewed as a federal responsibility (Skerry 1995), even by many states' rights politicians (Hsu 2009), 287(g) and Secure Communities, along with state-level immigration legislation in places such as in Arizona and Alabama, have ushered in a new era of local immigration enforcement.

Section 287(g) of the IIRIRA combines elements of both the localization and security movements. Section 287(g) permits the federal government to delegate immigration enforcement duties to state and local law enforcement. This is done through ICE and local law enforcement agencies entering into joint Memorandums of Agreement (MOA). Participating local agencies assign officers to receive training from ICE, thus allowing the designated officers to perform immigration enforcement duties. [2]

There were, until recently, three models of participation in 287(g): task force, jail enforcement, and hybrid. The task force model placed tremendous authority in the hands of local officers. Participating officers have authority to inquire into immigration status and issue ICE detainers in the field. They could also issue arrest warrants and execute search warrants. At the end of 2012, ICE announced that it would not renew agreements to use the task force approach in 2013.[3] Under the jail model, officers only conduct inquiries into a suspect's immigration status within the walls of the local detention facility. Officers will screen suspects who are foreign born, or whom officers believe may be foreign born, after the individual is detained for a criminal or non-immigration civil offense. In most 287(g) jail model jurisdictions, the

[2] "Fact Sheet: Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act," *U.S. Immigration and Customs Enforcement*. http://www.ice.gov/news/library/factsheets/287g.htm (accessed Sept. 23, 2011).

[3] See ICE's memo explaining it will only reauthorize jail model MOAs for 287(g) starting in 2013: http://www.ice.gov/news/releases/1212/121221washingtondc2.htm (accessed August 27, 2013).

process is routinely conducted alongside the standard booking process, but some agencies, such as the Los Angeles County Jail, have only screened individuals after they are convicted of a crime (Capps et al. 2011). The hybrid model, which was rare, combined both approaches.

At the time data was collected for this study, there were 69 agencies in 24 states participating in the program. [4] Four law enforcement agencies in Arkansas, all of which are located in the northwest part of the state, had signed 287(g) MOAs with ICE: the sheriff's offices for Benton and Washington counties and police departments in Springdale and Rogers. Both the Benton and Washington County sheriff offices used the hybrid model. The city police departments used the task force approach (Capps et al. 2011, 54).

The role of local law enforcement was further extended with the creation of Secure Communities, first piloted with 14 local jails in 2008. [5] Secure Communities is a collaboration between local agencies, ICE, and the U.S. Department of Justice. It functions, essentially, as a deportation program that uses integrated databases to run background checks on immigrants detained by local law enforcement. While it is common practice to run an arrested individual's name and fingerprints against criminal databases, Secure Communities allows a suspect's information to also be checked against federal immigration records ("Confusion Over Secure Communities" 2010). A suspect's fingerprints are checked again by the Federal Bureau of Investigation (FBI) and the Department of Homeland Security (DHS) databases (DHS 2011a). Flagged immigrants are turned over to ICE for deportation hearings. Under President Obama, the program has rapidly expanded to cover all 3,181 counties in the United States.[6] Data for this study was collected when 1,210 jurisdictions nationally and 19 Arkansas counties were participating in Secure Communities.

Unlike Section 287(g), Secure Communities does not allow local officers to directly inquire into an individual's immigration status (Garcia and

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[4] As of December 31, 2012, there are 39 jurisdictions that have signed 287(g) MOAs with ICE. Both the Benton and Washington County sheriff offices continue to use the program under the jail model. See ICE's "287(g) Results and Participating Entities": http://www.ice.gov/news/library/factsheets/287g.htm (accessed July 6, 2013).

[5] "Secure Communities." *U.S. Immigration and Customs Enforcement*. http://www.ice.gov/secure_communities/ (accessed Sept. 23, 2011).

[6] See "Activated Jurisdictions": http://www.ice.gov/doclib/secure-communities/pdf/sc-activated.pdf (access August 27, 2013).

Manuel 2010). Instead, Secure Communities works as a screening process. Secure Communities working in conjunction with Section 287(g), however, effectively turns local law enforcement agencies into branches of ICE. Local officers are deputized to enforce immigration law under 287(g), and given access to the federal immigration database under Secure Communities.[7] ICE has presented both 287(g) and Secure Communities as programs intended to identify "criminal immigrants" (Capps et al. 2011). Both programs fall under ICE's Agreements of Cooperation in Communities to Enhance Safety and Security (ACCESS), the umbrella name given to all coordinated state and local government services and programs run by ICE.

Local participation in ACCESS has generated a great deal of controversy. Civil liberties organizations such as the American Civil Liberties Union (ACLU) and minority rights groups such as *La Raza* have argued that 287(g) encourages racial profiling (ACLU 2010; Lacayo 2010). These complaints were partially validated by a report by the DHS's Office of the Inspector General (OIG), which noted numerous incidents of racial profiling in states such as Georgia (DHS 2011b). The OIG's findings were repeated in a study by the U.S. Government Accountability Office (GAO), which documented a serious lack of oversight and training for the program (GAO 2009). Capps and his colleagues (2011) note that the scope of 287(g) seems somewhat ambiguous. Specifically, it is not clear whether the federal-local partnership under the 287(g) program should focus on catching serious criminal immigrants or as many unauthorized immigrants as possible, regardless of their criminal records. The authors additionally found widespread complaints of racial profiling through the program, and concluded that the program undermines community safety because immigrant communities are no longer willing to report crimes or talk to law enforcement. According to a study by *La Raza*, 287(g) often fractures the social cohesion of Latino communities, which is where a disproportionate number of programs are located (Lacayo 2010). Partly in response to civil liberty complaints, in 2009, the Obama administration stopped expanding the program so it could focus on restructuring and reforming 287(g). Changes to the program were ostensibly designed to focus on the identification of and removal of serious criminals and other public safety threats (Capps et al. 2011); yet, research indicates that political concerns over increasing Hispanic and Latino populations are the main reason communities seek to participate in the program (Wong 2012).

[7] It is important to note that all 287(g) agencies are in Secure Communities jurisdictions.

The Secure Communities was quickly criticized after it was implemented (e.g., Ray 2011). Many community leaders have expressed concerns that Secure Communities blurs the line between policing and immigration enforcement leading to immigrants, even if they are here legally, being afraid to contact police if they are victims of crimes (Ray 2011). Since immigrants would be naturally fearful of officers with the power to enforce immigration laws, many major communities such as San Francisco and the District of Columbia have attempted to opt out of Secure Communities (Preston 2011). Chicago mayor Rahm Emanuel–President Obama's former chief-of-staff–actually ordered city police offers not to participate in the program when dealing with immigrants who lack serious criminal records (Preston and Yaccino 2012). For a long time even ICE was confused as to whether localities could chose not to participate in the program ("No Exit From Bad Program" 2011). All uncertainty was eliminated, however, when the agency announced that participation was mandatory beginning in 2013 (Esquivel 2012).

ICE has described the program to Congress and the general public as a means to apprehending and deporting dangerous, high-level criminal aliens.[8] In fact, the Director of ICE, John Morton, has publicly directed employees to make high-level offenders the program's top priority. [9] Despite Morton's plea, there is strong evidence to indicate that minor offenders are usually targeted by the program. Through 2010, roughly 90% of individuals flagged through Secure Communities were charged with petty crimes and 50% had no prior criminal record (Tsankov and Martin 2010). Even more recently it was noted that the program is responsible for the transfer of more than 52,000 non-criminals to ICE (Branche 2011).

Both program 287(g) and Secure Communities appear to suffer from a lack of transparency. Because Secure Communities was created administratively, and not by congressional statute, there are no legislative rules overseeing ICE's management of the program, although the agency does periodically report on activities to Congress (DHS 2009). According to the GAO, ICE had not developed performance measures for 287(g) as recently as 2009, even though government agencies are required to clearly

[8] See ICE's website for the agency's statement that it "prioritizes the removal of criminal aliens, those who pose a threat to public safety." ICE also states this is its goal in its description of Secure Communities. http://www.ice.gov/secure_communities/ (accessed Sept. 23, 2011).
[9] See Letter from John Morton, Assistant Secretary, U.S. Immigration and Customs Enforcement, to All ICE Employees, June 30, 2010, http://www.rmlegal.com/documents/ICE-John-Morton-2010-Prioirty-Memo.pdf (accessed Dec. 4, 2011).

define their mission and develop performance measures against which their goals are evaluated (GAO 2009).

Not surprisingly, both programs are accused of obscuring the divisions of roles and resources for local and federal actors. Both 287(g) and Secure Communities clearly follow the "cooperative federalism" model (Grodzins 1966). ICE is supposed to provide financial assistance to participating agencies. Still, there is evidence that federal support is inadequate, as many local counties and municipalities are struggling to pay for the jailing and detainment of immigrants (Branche 2011).

Data

The goal of our study is to reach generalizable conclusions about Arkansas's participation in ACCESS programs in comparison to other participating jurisdictions. In particular, we are interested in determining if Arkansas's participation in both 287(g) and Secure Communities is typical compared to surrounding states. To do this, we have used analysis of variance testing on data collected from counties participating in Secure Communities in Arkansas and its seven neighbors.

The tool of primary importance for ICE's collaboration with local law enforcement in Secure Communities is its Integrated Automated Fingerprint Identification System (IAFIS) and Automated Biometric Identification System (IDENT) interoperability. The "IDENT/IAFIS interoperability" system is a data conduit connecting FBI and DHS databases (DHS 2011a). Data on the number of suspects screened by ICE via the Secure Communities are collected by the DHS's Civil Rights and Civil Liberties (CRCL) division and reported quarterly. ICE has created a three-tiered categorization system to identify the risk associated with individuals flagged through IDENT/IAFIS screenings. Level 1 individuals have been convicted of "aggravated felonies" as defined by the INA of 1996. Level 2 individuals have been convicted of any felony, or three or more misdemeanors. Level 3 individuals have been convicted only of a misdemeanor.[10] Fortunately, ICE's quarterly reports also identify the number of non-criminal immigrants turned over to the agency. These individuals are categorized as non-criminal, immigration violators. [11] Individuals in this category have not been

[10] See Letter from John Morton, p. 2. (footnote 9)

[11] See "Secure Communities: IDENT/IAFIS Interoperability Monthly Statistics through April 30, 2011," prepared on May 23, 2011, http://www.ice.gov/doclib/foia/sc-stats/nationwide_interoperability_stats-fy2011-feb28.pdf (accessed Dec. 4, 2011): 51.

convicted of a crime but have violated an immigration law. Examples include individuals who have overstayed their visas.

ICE provides an "outcome metrics by county" report with data on participating Secure Communities jurisdictions reported at the county level.[12] There are several categories of information on each jurisdiction. All reports note when the local jurisdiction began participating in Secure Communities with an "activation date." Statistics are provided on the number of individuals whose fingerprints have been submitted to ICE's interoperability system. The number of individuals who are matched in the system are reported based on whether the individual was charged with a level 1 or a level 2/3 offense.[13] Statistics are also given on the number of individuals deported by ICE within each offender level. Reports also note the number of individuals in each offender level who were administratively arrested by ICE.

Unfortunately, each quarterly report presents aggregated data for the entire time the jurisdiction has participated in Secure Communities, and not all jurisdictions began participating in the program at the same time. The first county in our sample to begin participating was Harris County, Texas, which began on October 27, 2008. Pulaski County, which began participating on August 17, 2010, was the first county in Arkansas. Data for all counties was collected up to April 11, 2011.

The total number of submissions to ICE's interoperability system from counties that have participated in the program since its inception in 2008 are reported alongside recently added counties. This presents challenges to our analysis because counties that have participated in Secure Communities longer will, all things being equal, produce higher variable values than those that have only recently enter into the program. To accommodate for this problem, we have created a control variable to account for the number of days the county was participating in the program up to the final date data for the ICE report was collected. We label this control variable "days active." We also use Census population statistics as control variables for each jurisdiction we include in our study. More populated communities will of course produce high arrest and removal values.

[12] Note: Not all jurisdictions participating in Secure Communities are counties. A small number are cities and are reported at the municipal level.

[13] The reports do not explain why level 2 and 3 matches are reported as one combined value.

Our population consists of 369 participating jurisdictions in seven states. Arkansas contains 11 of the participating jurisdictions.[14] The vast majority of participating counties (254 to be specific) are in Texas, which has every county in the state participating in Secure Communities. The rest of the participating jurisdictions are as follows: Oklahoma, 30; Missouri, 35; Tennessee, 21; Mississippi, 10; and Louisiana, 8. Prior studies have strongly indicated that ACCESS programs have been targeted at low-level or non-criminal immigration offenders (Branche 2011; Tsankov and Martin 2010). These findings are supported by descriptive statistics on the jurisdictions used for this study. Only a small fraction of individuals screened by jurisdiction have been matched in ICE's interoperability system for level 1 offenses. Less than 1%, a mere 0.21% of individuals screened in Arkansas jurisdictions have been flagged for level 1 offenses. This is fairly typical. The average for all seven states was 0.44%, although this average is slightly skewed positively by Texas jurisdictions, which produced the highest level 1 match percentage of 0.58%. Arkansas's level 1 match percentage was actually second highest among states. See Table 1 for the percentage of level 1 offenders matched in each states' participating jurisdictions.

Table 1: Percentages on Variables for Each State

State	Level 1 Offender Matches	Non-criminals Booked*	Non-criminals Returned*
Arkansas	0.21%	56.34%	63.45%
Louisiana	0.14%	62.45%	51.96%
Missouri	0.11%	64.79%	44.31%
Mississippi	0.09%	29.71%	29.62%
Oklahoma	0.10%	16.81%	19.68%
Tennessee	0.13%	31.49%	30.51%
Texas	0.58%	46.44%	37.83%
Total	**0.44%**	**44.75%**	**37.66%**
N	366	255	218

*Percentages based on jurisdictions to have at least one individual within each category.

The descriptive statistics also illustrate that the plurality of individuals administratively arrested (or booked) by ICE officials are non-criminals. Overall, 44.75% of individuals booked by ICE in all seven states were non-criminals.[15] Arkansas jurisdictions produced a noticeably higher average of

[14] As noted before, there are now 19 participating counties in Arkansas. There were only 11 at the time this data reported to ICE was collected.

[15] The booking and return percentages discussed here are only for jurisdictions that have at least one individual booked or returned, as it is impossible to create a percentage by dividing by zero.

non-criminal arrestees. Oklahoma's non-criminal-arrestee percentage was the lowest. Arkansas produced the highest percentage of non-criminals who were returned. The lowest was once again Oklahoma. The overall percent of non-criminals returned was 37.66%. The arrest and return percentages are also contained in Table 1.

Since the arrest and return values for offender levels in each jurisdiction are aggregated, we created variable rows for each offender-level value. For the analysis of variance testing, each participating jurisdiction is entered in our spreadsheet as a column, with four different rows noting the number of arrests and removals the jurisdiction had for each offender level. This type of data entry allowed us to compare the totals for each offender level to determine if jurisdictions were processing specific levels of offenders at a higher rate. This method of analyzing the data had the added benefit of creating a perfectly balanced design, which produces greater power to determine statistical significance (Shaw and Mitchell-Olds 1993). Because there is a value for each offender level for every jurisdiction, we have four offender groups to compare from each jurisdiction in the study. This method of analysis also helps us somewhat to control for ethnic and racial differences between jurisdictions. While communities with higher percentages of Hispanics would be expected to produce higher arrest and removal numbers, one would anticipate that such a community would produce higher numbers for each offender level, e.g., higher non-criminal, low-level, mid-level, etc.

We ran one-way ANCOVA's (controlling for population and number of days participating in Secure Communities) on all the arrest and return variables for all 369 jurisdictions. This overall analysis of jurisdictions does tentatively indicate that local law enforcement and ICE are targeting low-level and non-criminal offenders at higher levels. It is important to note, however, that the difference between offender level values for both the arrest and removal variables are not statistically significant. In fact, only the control variables are significant for either model, with the population values significant for both models and the days active values significant for the arrest model. For the arrest model, the estimated marginal means for both the low-level and non-criminal categories are almost identical. The arrest values for both categories are noticeably higher than those for high and middle level offenders, but the difference between groups is not significant.

The analysis of variance testing discussed later is done on raw numbers; thus, all jurisdictions are included in that part of the analysis.

The removal model output is similar, with the low-level offender values the highest.[16] Outputs for both models are reported on Table 2.

Table 2: Omnibus Outputs for All States Together (Estimated Marginal Means of Arrests per Secure Communities Jurisdictions)

Main Effects	Model 1 Arrests	Model 2 Removals
High Level	30.62(a)	19.10(a)
Std. Error	7.814	5.956
N	369	369
Mid-Level	19.43(a)	13.05(a)
Std. Error	7.814	5.956
N	369	369
Low Level	37.56(a)	29.62(a)
Std. Error	7.814	5.956
N	369	369
Noncriminal	37.29(a)	18.20(a)
Std. Error	7.814	5.956
N	369	369
Model F-Statistic	474.417**	415.312**
Levene	0.459	0.164
Offender Level	1.182	1.362
County Population	1,951.987**	1,750.189**
Days Active	6.281*	1.211
N	1,476	1,476

Note: Estimated means are based on analysis of variance with covariates for county population and number of days active in Secure Communities. Each cell represents the mean number of arrests or removals of the offender level for each jurisdiction. Within each cell, estimated means with different letters are significantly different from each other (alpha <.05) according to a post hoc Bonferroni tests. * p < .05; ** p < .01

Since we are primarily concerned about the performance of law enforcement within states, specifically Arkansas, we ran the same models using the split file command to produce state outputs. The results are quite revealing. Both Arkansas and Missouri produce statistically significant differences between offender levels for the arrest variable, with both states yielding omnibus p-values below the 0.01 level. The omnibus p-value for Mississippi's arrest offender level variable is close to significant. Arkansas produced by far the highest strength of association between arrest values and the offender-level variable (partial eta squared = 0.276), indicating that variance in the arrest values is highly related to the type of offender. The adjusted R^2 for the Arkansas arrest model is 0.46. The non-criminal arrest levels are by far the highest for any category of offender in Arkansas. The Bonferroni post hoc shows the non-criminal arrest numbers to be significantly higher than mid-level offender numbers at the 0.01 level, the

[16] The Levene's test for homogeneity of variance (HOV) produces p-values of 0.71 for the arrest and 0.92 for the return models, suggesting that both models are highly powerful.

low-level numbers at 0.05, and nearly significant in comparison to the high-level offender values ($p = 0.08$) for Arkansas.[17] In fairness, the non-criminal arrest values are higher for all states except Texas. Only in Arkansas and Missouri, however, are they significantly different from other offender levels.[18]

Using the state comparison for the removal ANCOVA is even more revealing. Only Arkansas produced significant differences between offender removal levels, with an omnibus F-stat significant at the 0.01 level. The partial eta squared is 0.308 for the removal level variable in the Arkansas model, much larger than for other states. The adjusted R^2 is 0.508.[19] The pairwise comparisons show the non-criminal deportation values significantly higher than those for all three other offender levels. The difference is significant at the 0.05 level for both the high and low level offender values and at the 0.01 level for the mid-level values. Tables 3 and 4 report the arrest and removal outputs for individual states.

One may assume that jurisdictions participating in 287(g) would produce the highest arrest and removal levels. To test this hypothesis, we re-ran the models this time including a dummy variable to note whether the jurisdiction contained a 287(g) agency (or agencies). This part of the analysis is only conducted on Arkansas, Oklahoma, and Missouri.[20]

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[17] We have used the Bonferroni for the split file and multi-fact models, as it is generally a strong test for cases where HOV has been violated.

[18] The non-criminal arrest values for Missouri are significantly higher at the 0.05 level than both the high and middle level offender values, and are close ($p = 0.057$) for the low-level offender values.

[19] The removal offender level variable is close to significant for Missouri and Mississippi, although the strength of association was quite small in Missouri's case.

[20] Oklahoma's sole participating agency is the Tulsa County Sheriff's Office, located in Tulsa County. Missouri has deputized 18 highway patrol officers who are located in three counties: Green, Jackson, and St. Louis counties and St. Louis city ("Missouri Highway Patrol to Scope Out Illegals" 2008). There are multiple reasons for the exclusion of other states. Since all states have fewer 287(g) jurisdictions than non-287(g) ones, the multi-factor ANCOVAs we used for this part of the analysis creates unbalanced designs. While this is not normally a problem (Kirk, 1995, 146-48), the imbalance in Texas, which has only four 287(g) jurisdictions verses 250 observations with only Secure Communities, is too great. For Tennessee, we were unable to determine the jurisdictional location of all its participating 287(g) highway patrolmen. Louisiana and Mississippi were excluded from the multi-factor model because they have no 287(g) communities.

Table 3: State Level ANCOVAs for ICE Arrest Numbers (Estimated Marginal Means of Arrests per Secure Communities Jurisdictions)

Main	Model 1 AR	Model 2 OK	Model 3 MO	Model 4 LA	Model 5 MS	Model 6 TN	Model 7 TX
High	4.702(a,b)	6.767 (a)	0.514 (b)	12.000(a)	0.600(a)	8.000(a)	42.299(a)
SE	2.381	4.828	0.983	30.578	1.799	7.774	10.330
N	11	30	35	8	10	21	254
Mid	1.702(b)	6.433 (a)	0.543 (b)	9.250(a)	1.300(a)	8.762(a)	26.236(a)
SE	2.381	4.828	0.983	30.578	1.799	7.774	10.330
N	11	30	35	8	10	21	254
Low	3.190(b)	8.000(a)	1.086(a,b)	22.625(a)	4.700(a)	14.667(a)	50.720(a)
SE	2.387	4.828	0.983	30.578	1.799	7.774	10.330
N	11	30	35	8	10	21	254
Non	13.405(a)	15.333(a)	4.743(a)	100.625(a)	6.900(a)	26.095(a)	45.606(a)
SE	2.387	4.828	0.983	30.578	1.799	7.774	10.330
N	11	30	35	8	10	21	254
F	8.404**	37.605**	18.384**	3.637*	4.295**	11.911**	426.257**
Levene	3.365*	1.445	2.087	2.180	4.411*	1.543	0.380
Off Lvl	4.829**	0.752	4.266**	2.013	2.697	1.156	1.047
Ct Pop	1.548	4.099*	44.226**	0.000	7.749**	19.662**	1735.437**
D Act	15.714**	3.499	0.044	6.529*	1.961	0.791	0.445
N	44	120	140	32	40	84	1016

Note: Estimated means are based on analysis of variance with covariates for county population and number of days active in Secure Communities. Within each column, estimated means with different letters are significantly different from each other (alpha <.05) according to a post hoc Bonferroni tests. * p < .05; ** p < .01

Table 4: State Level ANCOVAs for ICE Removals Numbers (Estimated Marginal Means of Arrests per Secure Communities Jurisdictions)

Main	Model 1 AR	Model 2 OK	Model 3 MO	Model 4 LA	Model 5 MS	Model 6 TN	Model 7 TX
High	1.910(b)	4.400(a)	0.286(a)	5.250(a)	0.200(a)	5.095(a)	26.581(a)
SE	0.822	3.291	0.451	14.002	1.135	2.725	7.970
N	11	30	35	8	10	21	254
Mid	0.820(b)	5.467(a)	0.143(a)	5.500(a)	0.800(a)	5.714(a)	17.644(a)
SE	0.822	3.291	0.451	14.002	1.135	2.725	7.970
N	11	30	35	8	10	21	254
Low	1.720(b)	6.500(a)	0.657(a)	14.750(a)	2.700(a)	9.667(a)	40.522(a)
SE	0.828	3.291	0.451	14.002	1.135	2.725	7.970
N	11	30	35	8	10	21	254
Non	5.277(a)	9.667(a)	1.714(a)	46.625(a)	4.200(a)	9.048(a)	22.625(a)
SE	0.824	3.291	0.451	14.002	1.135	2.725	7.970
N	11	30	35	8	10	21	254
F	9.808**	41.078**	19.238**	3.934**	53.339**	22.320**	369.663**
Levene	4.80*	1.280	1.722	2.129	2.803	0.655	0.65
Off Lvl	5.631**	0.477	2.478	1.953	2.588	0.718	1.519
Ct Pop	0.006	4.235*	52.862**	0.009	6.399*	29.670**	1542.817**
D Act	0.002	4.094*	0.021	7.025**	2.725	0.119	3.348
N	44	120	140	32	40	84	1016

Note: Estimated means are based on analysis of variance with covariates for county population and number of days active in Secure Communities. Within each column, estimated means with different letters are significantly different from each other (alpha <.05) according to a post hoc Bonferroni tests. * p < .05; ** p < .01

The multi-factor arrest model, reported in Table 5, produces significant omnibus values for both the offender level and 287(g) variables as well as the interaction term for Arkansas. The strength of association for the offender

level variable is strongest in this model (partial eta squared = 0.772). The post hoc analysis shows non-criminal offender values significantly higher than all other levels at the 0.01 level. The 287(g) variable is also significantly related to higher arrest numbers at the 0.01 level. Missouri also produces significantly higher arrest numbers for non-criminal offenders. The omnibus interaction term is statistically significant, although the 287(g) main effect is not. The explanation for the non-significant 287(g) factor in Missouri (which can be illustrated with a graphic depiction of the plotted estimated marginal means) is that 287(g) jurisdictions are producing higher arrest numbers for

Table 5: Two-way ANCOVAs for Arrests (Estimated Marginal Means of Arrests per Secure Communities Jurisdictions participating in 287(g))

Main Effects	**Model 1 Arkansas**	**Model 2 Oklahoma**	**Model 3 Missouri**
High Level	8.248(b)	-38.953(a)	-2.436(b)
Std. Error	2.040	13.437	1.388
N	11	30	35
Mid-Level	1.943 (b)	-23.194(a)	-2.964(b)
Std. Error	2.040	13.437	1.388
N	11	30	35
Low Level	6.832(b)	-38.315(a)	-0.807(b)
Std. Error	2.656	13.437	1.388
N	11	30	35
Noncriminal	25.816(a)	-44.177(a)	11.709(a)
Std. Error	2.001	13.437	1.388
N	11	30	35
Uses 287(g)	18.504 (a)	-84.687(b)	1.824(a)
Std. Error	1.504	17.250	0.458
N	8	4	16
Non-287(g)	2.916 (b)	12.369(a)	0.927(a)
Std. Error	3.843	2.230	1.865
N	36	116	124
Model F-Statistic	26.775**	30.060**	24.983**
Levene	25.094**	0.660	25.879**
Offender Level	38.404**	0.569	31.751**
287(g) Dummy	11.332**	30.047**	0.190
Offender Level*287(g)	26.381**	1.196	26.744**
County Population	1.539	0.066	38.561**
Days Active	0.031	22.301**	0.077
N	44	120	140

Note: Estimated means are based on analysis of variance with covariates for county population and number of days active in Secure Communities. Within each column, estimated means with different letters are significantly different from each other (alpha <.05) according to a post hoc Bonferroni tests.* $p < .05$; ** $p < .01$

non-criminals, but are producing fewer arrests for other offender levels, thus lowering the pooled value for the main effect.[21]

The multi-factor return model, reported in Table 6, produces slightly different results. The offender interaction term is significant at the 0.01 level for all three models. The omnibus tests also show the offender level variable to be significant for all three states: at the 0.01 level for Arkansas and Missouri and nearly the 0.01 level for Oklahoma. The 287(g) dummy variable

Table 6: Two-way ANCOVAs for Removals (Estimated Marginal Means of Arrests per Secure Communities Jurisdictions participating in 287(g))

Main Effects	Model 1 Arkansas	Model 2 Oklahoma	Model 3 Missouri
High Level	2.855 (b)	-29.294 (a,b)	-0.806(b)
Std. Error	1.057	8.651	0.625
N	11	30	35
Mid-Level	1.021(b)	-7.984(b)	-1.648(b)
Std. Error	1.057	8.651	0.625
N	11	30	35
Low Level	2.795(b)	-22.415(a,b)	0.166(b)
Std. Error	1.377	8.651	0.625
N	11	30	35
Noncriminal	8.552(a)	-42.501(a)	5.118(a)
Std. Error	1.037	8.651	0.625
N	11	30	35
Uses 287(g)	5.965(a)	-59.895(b)	0.698(a)
Std. Error	0.549	11.106	0.206
N	8	4	16
Non-287(g)	1.647(a)	8.798(a)	0.717(a)
Std. Error	1.992	1.436	0.839
N	36	116	124
Model F-Statistic	10.974**	37.908**	27.246**
Levene	7.808**	0.639	30.573**
Offender Level	14.189**	3.472*	29.822**
287(g) Dummy	3.237	36.310**	0.00
Offender Level*287(g)	6.385**	4.909**	29.475**
County Population	1.618	0.055	43.140**
Days Active	0.003	27.802**	0.034
N	44	120	140

Note: Estimated means are based on analysis of variance with covariates for county population and number of days active in Secure Communities. Within each column, estimated means with different letters are significantly different from each other (alpha <.05) according to a post hoc Bonferroni tests.* p < .05; ** p < .01

[21] The only significant variable in this model for Oklahoma is the 287(g) main effect–which showed lower arrest values for 287(g) jurisdictions. This could be an anomaly as there is only one 287(g) jurisdiction (Tulsa) in the entire state.

is significant for only Oklahoma,[22] although it is close (p = 0.08) for Arkansas. Although the main effects are significant for multiple states, the post hoc analysis shows vastly different directions for the relationship between variables. In Arkansas and Missouri, the non-criminal arrest values are significantly higher than the other three offender levels (at the 0.01 level), which largely reflect the findings of the one-way ANCOVA models. Yet, in Oklahoma the non-criminal numbers are lower, although only significantly different from the mid-level numbers. Arkansas's 287(g) jurisdictions also produced higher return numbers, while Oklahoma's are lower.

Limitations and Discussions

The scope of our analysis is limited by the nature of data. We are not able to answer questions of racial profiling, as ICE does not provide racial data on individuals flagged through its interoperability system. We also lack local economic data to determine if 287(g) and Secure Communities are being more aggressively implemented in poor or high-unemployment communities. With respect to 287(g), we made no distinction between communities using the taskforce or jail model, due to the limited number of 287(g) participating jurisdictions. Finally, because ICE reports data that has been aggregated over the jurisdiction's entire participation in Secure Communities, we are unable to perform any longitudinal analysis that can detect variations in application over time.

Despite these limitations, our study of Arkansas and surrounding states' participation in 287(g) and Secure Communities strongly supports the arguments made by critics of both programs. Analysis of data obtained from ICE leaves little doubt that non-criminals are by far the group most affected by these programs in Arkansas. While non-criminals are the most frequently affected offenders in most surrounding states, the percent of non-criminals processed by local law enforcement and ICE is higher in Arkansas.

The strict local enforcement of federal law may seem somewhat ironic considering the fact that Arkansas's legislature remains the only one in the South or southern Midwest not to seriously consider or enact a law similar to Arizona's SB 1070.[23] Yet, some scholars have found that local communities, especially more conservative ones, have been more enthusiastic about

[22] As with the previous model, the 287(g) variable was inversely related to removal rates.
[23] See the ACLU's "What's At Stake: SB1070 at the Supreme Court." http://www.aclu.org/whats-stake-sb-1070-supreme-court-0 (accessed July 23, 2013).

participating in ACCESS programs when the state as a whole has not created its own immigration policies (Creek and Yoder 2012). Furthermore, it is usually concerns over the growth of immigrant populations, not concerns about crime, that predict a community's participation 287(g) (Wong 2012). We found that Washington and Benton counties, Arkansas's 287(g) jurisdictions, have produced the highest rates of arrests and deportations of non-criminal immigrants. Not surprisingly, many citizens in those counties have expressed concern over the growing Hispanic and Asian populations in the communities (Bradley, Fryar, and Van Riper 2003; Schulte 2012).

Due to the small number of 287(g) jurisdictions, it is difficult to determine if 287(g) jurisdictions in other states are producing arrest and deportation numbers similar to those in Arkansas. Missouri's non-criminal arrest and deportation numbers in 287(g) jurisdictions appear to be similar to Arkansas's (at least when the non-criminal numbers are compared to the other offender levels). Oklahoma's one participating jurisdiction is producing lower non-criminal numbers.

Social construction theory is a common explanation of immigration policy creation and enforcement (e.g., Baker 1993; Yanow 2000). While we lack data on the views of local administrators toward immigrants or even on the views of citizens in participating jurisdictions generally, it seems reasonable to question if the disproportionate targeting of non-criminal immigrants in Arkansas is the consequence of local perceptions of undocumented immigrants as "deviants." Nationally, a growing number of Americans have supported policies such as the DREAM Act, which allows undocumented children who graduate from high school to qualify for in-state college tuition (Perez-Pena 2012); yet, Arkansans remain overwhelmingly opposed to such policies (Doherty 2012). In the Northwest part of the state, where non-criminal immigrants are most being affected by ICE's local-federal partnership policies, in-coming immigrants have not always been welcomed by locals (Bradley, Fryar, and Van Riper 2003).

The delegation of federal immigration responsibilities to state and local governments also has potential civil right consequences. Prior research has indicated that state and local governments are not as effective as federal agencies when they are called upon to protect minority rights (Bullock and Rodgers 1976; Orfield and Eaton 1996; Peltason 1971). Possibly more troubling is the division that frequently develops between federal policy intent and local application in cooperative federalism partnerships. As Pressman and Wildavsky (1984) illustrated, the increased number of decision

points between federal passage and local implementation often produces a shift in policy priorities. If the true intent of ACCESS programs is the apprehension of dangerous immigrant criminals, then such a division has developed with 287(g) and Secure Communities in Arkansas.

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