

# Are Programs That Use Local and State Police to Enforce Federal Immigration Policies Effective?

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## Introduction

After changes to federal immigration law in 1996, local law enforcement officers began working more with federal immigration officials. New programs were aimed at promoting public safety by removing dangerous criminals from the United States. Two major programs, 287(g) and Secure Communities, involve local police departments working with the Department of Homeland Security's (DHS) Immigration and Customs Enforcement (ICE) to some degree. The Secure Communities Program was in place between 2008 and 2014 until it was replaced by the Priority Enforcement Program (PEP), which targeted the most dangerous offenders. Secure Communities was reinstated by President Trump in 2017, ending PEP with the purpose of enhancing public safety.<sup>1</sup>

Critics of cooperation between ICE and local police departments argue that broad programs like 287(g) and Secure Communities have been ineffective and even counterproductive for promoting public safety. They argue that such programs deter immigrant communities from cooperating with police out of fear that the police will initiate deportation proceedings. Even authorized immigrants may live with an undocumented family member and so may be unwilling to cooperate with the police.

This Research in Focus examines research describing the costs and benefits of using local and state law enforcement to carry out federal immigration policies. The evidence shows that broad immigration enforcement programs do not successfully reduce crime or improve public safety, mainly because they often fail to target serious offenders. In addition, several studies suggest the programs have real social costs, including decreased educational attainment and less crime reporting. More targeted programs, like PEP, are likely more effective.

These findings suggest that federal policymakers need to keep immigration enforcement programs that use local and state officers focused on serious offenders. Local officials can best promote public safety by introducing more inclusive immigration policies. Relying on community policing, promoting cooperation with law enforcement, and encouraging immigrants to integrate

into their communities are more promising than sweeping enforcement efforts.

## 287(g) and Secure Communities

The Illegal Immigration Reform and Immigrant Responsibility Act added article 287(g) to the Immigration Nationality Act. Creating what are called 287(g) programs, this legislation enabled ICE to provide local and state law enforcement officers with the legal authority to assume ICE functions.<sup>2</sup>

When the 287(g) program was introduced, it focused on identifying and removing any suspected illegal immigrant. This meant that the program originally had police determine the immigration status and arrest anyone they came across, regardless of criminal status, and arresting people with immigration violations. Inconsistency among 287(g) programs led ICE to restructure the program in 2009.<sup>3</sup> Under the current provisions of the 287(g) program, unauthorized immigrants arrested by local and state law enforcement are identified and processed by the justice system. After serving their sentence, offenders are transferred to ICE custody.<sup>4</sup>

In 2017, emphasis returned to a related program which was originally implemented between 2008 and 2014, Secure Communities. Secure Communities also relies on local and state law enforcement, but it does not empower local law enforcement officers to make inquiries or arrests based on immigration status. Secure Communities is largely a program for information sharing between local law enforcement, DHS, and the Federal Bureau of Investigation (FBI).<sup>5</sup>

When a person is detained, that person is fingerprinted, per normal procedures, and those prints are shared with the FBI. However, Secure Communities allows the FBI to send these fingerprints to DHS. DHS then uses these fingerprints to identify an arrestee's immigration status and determines how to proceed. ICE can then issue a detainer which requests that an offender not be released from the custody of local law enforcement until ICE is able to detain the individual. Offenders are prioritized based on the severity of crimes, ranging from high-priority (level 1) offenders (charged with crimes such as homicide and assault) to lower-priority (levels 2 and 3) offenders (charged with minor offenses).

Figure 1: ICE Offense Levels Defined<sup>6</sup>

Level 1 crimes	Level 2 crimes	Level 3 crimes
National security	Arson	Military
Homicide	Burglary	Immigration
Kidnapping	Larceny	Extortion
Sexual assault	Stolen vehicles	Damaging property
Robbery	Forgery	Family offenses
Aggravated assault	Fraud	Gambling
Threats	Embezzlement	Commercialized sex offenses
Extortion	Stolen property	Liquor
Sex offenses	Damaging property w/ explosive	Obstructing the police
Cruelty toward child, wife	Traffic offenses	Bribery
Resisting an officer	Smuggling	Health and safety
Weapons	Money laundering	Civil rights
Hit and run	Property crimes	Invasion of privacy
Drugs (sentence > 1 year)	Drug sentences <1 year	Election laws
		Conservation
		Public-order crimes

ICE argues that programs such as 287(g) and Secure Communities represent a “common sense” method of immigration enforcement.<sup>7</sup> Yet the academic literature offers a wide range of criticism challenging the claim that such programs achieve their public-safety goals. Some critics are also concerned about these programs’ potential economic and social harms that are unrelated to crime.

### Why These Programs Don’t Work

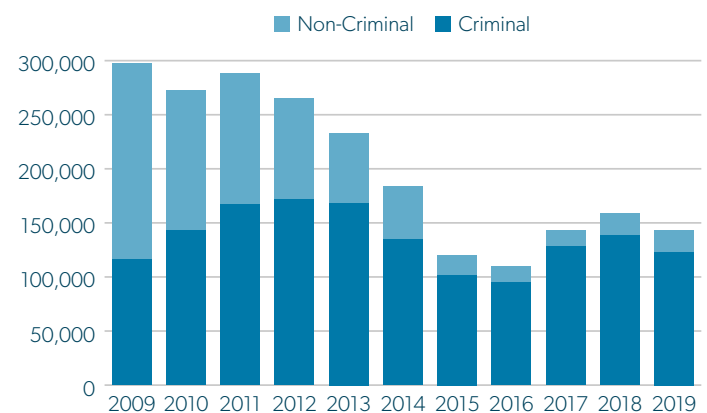
#### Enforcement Is Overly Broad and Picks Up Low-Level Offenders

A major problem with current immigration-enforcement programs is that they include individuals who are not an imminent threat to their community. Research verifies the overly broad nature of 287(g) programs. One 2009 paper focuses on the impacts of the 287(g) program in Alamance County, North Carolina. The paper concludes that the majority of those apprehended under the program were traffic offenders.<sup>8</sup>

The Secure Communities program leads to similar outcomes. Research shows that a significant number of people apprehended because of 287(g) or Secure Communities programs are minor offenders or noncriminals.<sup>9</sup> Between 2009 and 2019, at least twenty-seven out of every hundred arrestees were noncriminals.<sup>10</sup> These noncriminal arrestees are individuals who do not have any criminal convictions or pending criminal charges.<sup>11</sup> However, that average obscures changing enforcement priorities over the past decade, which is shown in Figure 2. Between 2009 and 2014, more than half of the enforcement actions targeted noncriminal immigrants. Since 2015, the number of noncriminal arrests has fallen. They now make up about 13 percent of all arrests. This

outcome is likely the result of the transition away from Secure Communities in 2014 to the Priority Enforcement Program (PEP) which uses the same fingerprinting process to identify offenders but focuses attention on those who pose the greatest risk to society.<sup>12</sup>

Figure 2: Enforcement and Removal Operations (ERO) Administrative Arrests by Criminality Status, 2009–2019



Note: ICE distinguishes between criminals without known convictions or pending criminal charges and those with known criminal charges. We consider those with pending criminal charges as criminal for years 2016, 2017, 2018, and 2019 using ICE’s end of year reports. The data for 2009 to 2015 come from DHS’s response to questions for the record from a 2016 Senate Judiciary Committee meeting.<sup>13</sup>

The changes in the data show how the PEP’s narrow targeting of dangerous criminals likely made it more effective compared to broad programs such as 287(g) and Secure Communities which were not designed to focus on the most threatening individuals. Existing research supports these claims by showing evidence

that it produced benefits for both immigrants and the American population in general. A recent study comparing widespread versus narrow enforcement found that prior to the Department of Homeland Security shifting its efforts towards criminal arrests, a higher propensity of deportees were arrested for minor offenses such as traffic offenses and drug use violations. This compares to outcomes following the narrowing of policy where less immigrants were solely detained for minor offenses, and deportees spent less time in detention. Less time in detention is associated with an estimated \$81 million in savings for the U.S. government, funds which could be reallocated to benefit taxpayers through investments in education and job training programs.<sup>14</sup> A similar study looking at the effects of the PEP in Dallas also found that the switch to PEP led to a higher number of detainments for dangerous crimes rather than primarily immigration-related crimes.<sup>15</sup>

### **Immigration Enforcement Does Not Reduce Serious Crimes**

Prioritized enforcement is important, as apprehending even a small number of serious criminals might reduce crime rates and benefit communities. Additionally, studies show that broader immigration enforcement efforts have not provided evidence of reduced crime rates. When cities participate in programs to cooperate with federal immigration enforcement, the rates of major crimes do not decrease. For example, a study comparing participation in and the extent of 287(g)-programs using annual FBI crime data between 2003 and 2015 in North Carolina shows that implementing the programs did not decrease rates of violent crime or property crime.<sup>16</sup>

Criminal-justice experts Elina Treyger, Aaron Chalfin, and Charles Loeffler analyzed monthly crime rates in 335 US cities between 2008 and 2011 to examine whether implementing Secure Communities reduced major crimes such as murder, rape, larceny, and motor vehicle theft. Overall, they found that cities with the most immigrants did not see significant reductions in crime rates after implementing the Secure Communities program. Locations with the largest proportions of Hispanic residents also did not see a significant decrease in crime rates.<sup>17</sup>

A third study finds similar results at the county level. Using data from 2,985 counties between 2004 and 2012 to compare crime rates following the implementation of the Secure Communities program, the study finds no reduction in the FBI overall-crime index in counties with Secure Communities. Burglary and motor theft fell, but although the reductions were statistically significant they did not represent meaningful improvements to public safety as they accounted for less than 1 percent of these crimes.<sup>18</sup> Given the research showing that immigrants are less likely to commit crimes than similar natives and that these enforcement programs primarily affect low-level offenders, the finding should not be surprising.<sup>19</sup>

Overall the research suggests that programs such as 287(g) and Secure Communities do not substantially reduce crime.

### **Immigrants Commit Crimes at Similar Rates to US Natives**

These programs are also ineffective because immigrant populations are not plagued with criminal activity. Various studies show that immigrant populations have crime rates similar to, if not lower than, comparable nonimmigrant populations.<sup>20</sup> Sociolo-

gists comparing crime statistics on immigrant and nonimmigrant populations found no relationship between legal status and violent crimes, including homicide and rape. They found a weak relationship between undocumented populations and drug-related arrests, however.<sup>21</sup>

Other literature suggests that immigrants actually reduce crime by revitalizing local areas. A study comparing crime rates in various locations finds that locations with increasing immigrant populations see decreases in crime rates.<sup>22</sup>

Overwhelmingly, research on immigration and crime shows that immigrants are not more prone to committing crimes than similar US natives. Policymakers may better improve public safety by shifting the resources devoted to broad enforcement programs toward targeted programs pursuing the most dangerous individuals, regardless of immigration status. In the same way that law enforcement targets only dangerous natives, immigration-related crime programs should target the few immigrants who commit serious crimes.

### **Immigration Enforcement's Unintended Consequences**

In addition to failing to meet its intended purpose, programs such as 287(g) and Secure Communities have unintended negative consequences. For example, academic research suggests these programs decrease trust in the criminal justice system and appear to reduce educational attainment among immigrant communities.

### **Immigrants Are Less Likely to Report Crimes**

Targeting innocent individuals and minor offenders creates ripple effects that may decrease community safety. Multiple studies underscore how immigration-enforcement programs erode trust in local law enforcement and therefore decrease crime reporting. Immigration scholar Michele Waslin found evidence that the 287(g) program and Secure Communities decrease the ability of local law enforcement agencies to develop a trusting relationship with the communities they protect. When local police coordinate with federal immigration officials, immigrants fear that if they report crimes and cooperate with the police, they will be subject to immigration enforcement and consequent deportation and separation from their families.<sup>23</sup> They are also more likely to be the victims of crimes because criminals do not expect undocumented immigrants to report wrongdoings against them because of their fear and lack of trust.<sup>24</sup>

A study using a sample of over one thousand adult Latina individuals in the United States found that a one-point increase in fear of deportation (measured by an increase on a scale of level of worry, such as an increase from being worried "some" to "a lot") is associated with a 13 percent decrease in confidence that law enforcement officers would treat them fairly. Results also show that a one-point increase in fear of deportation is also associated with being 15 percent less likely to report a violent crime to law enforcement.<sup>25</sup> This means that when local police participate in federal immigration-enforcement programs, communities and the United States at large may actually become less safe because more crimes go unpunished and victims feel more vulnerable.

Immigration experts studying immigration enforcement in other forms, rather than 287(g) or Secure Communities, found that intensifying immigration enforcement increases the likelihood that domestic violence goes unreported. A recent study assessed the relationship between increased immigration enforcement and calls dispatched to the Los Angeles Police Department between 2014 and 2017. The results show that calls related to domestic violence decreased 3 percent per capita in districts with largely undocumented immigrant populations as awareness of immigration enforcement increased.<sup>26</sup> Decreased reporting of domestic violence indicates that victims are unable to seek help from law enforcement when in dangerous situations. Another study showed how limiting the use of local law enforcement to implement federal immigration law shows that such policies reduced domestic-homicide victimization rates among Hispanic women by 52 to 62 percent.<sup>27</sup>

Looking at evidence from Dallas shows that the introduction of PEP and narrowing targets of law enforcement reduced the cost of reporting crimes for immigrants, because under PEP, they are less likely to be detained if they are not committing a serious offense. In fact, the evidence shows that the number of incidents reported by Hispanics increased roughly 8 percent after PEP was implemented. Even more specifically, the likelihood of Hispanic victims to report violent and property crimes increased 4 percent.<sup>28</sup> The results confirm that focusing on the most dangerous criminals facilitates cooperation between immigrant communities and local police.

### **Immigration Enforcement Impacts Education**

One study looks at how 287(g) programs and Secure Communities changed educational choices of Hispanic students. The study uses data on Hispanic children ages six to seventeen from 2000 to 2013. It shows that increasing immigration enforcement raises the likelihood that Hispanic students in grades K–8 will repeat a grade. In addition, and more significantly, the study also finds that more children between fourteen and seventeen years old drop out of school entirely.<sup>29</sup>

Another paper examines the effects of 287(g) programs on Hispanic student enrollment. It shows that local ICE partnerships “reduce the number of Hispanic students by 10% within 2 years.”<sup>30</sup> This may be because, when 287(g) programs are in place, parents fear that their children’s school attendance will reveal their immigration status and lead to their deportation, which in turn leads the parents to withdraw their children from the public education system. A related paper suggests that 287(g) programs may even be reducing Hispanic and Black student achievement, possibly through increased student mobility from one area to another or heightened stress.<sup>31</sup>

Related research examines the effect of immigration raids, rather than 287(g) programs or Secure Communities, on Hispanics’ education choices. A study of the effects of immigration raids on Head Start enrollment, for example, shows how fear of deportation arising from immigration enforcement reduces enrollment. By comparing enrollment before and after raids, the authors showed decreases in enrollment of over 10 percent. They attributed their finding to both the increased mobility among migrants and the increasing isolation among migrants who remain in their

communities but choose to avoid public participation in school because they fear that doing so will divulge their immigration status and lead to their deportation.<sup>32</sup>

Educational attainment is an important predictor of long-term success for individuals. Educated children, whether immigrants or citizens, also make greater contributions to public budgets and economic growth in the United States. If enforcement programs reduce investment in education, they likely create long-term losses for the country as well as the local communities where immigrants live and work.

### **Improving Immigration-Enforcement Programs**

Improving immigration-enforcement programs requires refocusing them on dangerous criminals. This means recognizing that limited resources are available for local policing. By only targeting those who threaten the safety of society, law enforcement officers would be able to rebuild trust in their communities and focus on making communities safer, not forcing immigrants to live in fear and isolation.

One way to do this is by implementing inclusive policies to integrate immigrants into American society in ways that make them feel safe in their communities. An example of an inclusive policy is sanctuary, a policy that limits how local police enforce federal immigration law. These policies give immigrants the certainty that they can work with local police officers on public-safety matters without being pursued for immigration offenses.

Research on sanctuary policies and public safety has found promising results. One study finds that crime rates did not change after the enactment of sanctuary policies. The authors concluded that sanctuary policies have “little costs for cities.”<sup>33</sup> A similar study finds evidence that such policies result in fewer robberies but have no effects on other crimes.<sup>34</sup> A third study shows a large decrease in domestic homicides with Hispanic women as victims.<sup>35</sup> A recent working paper examining 42 cities with formal sanctuary policies shows that sanctuary may reduce property crimes and does not increase overall crime rates.<sup>36</sup> Finally, a study published in the *Proceedings of the National Academy of Sciences* came to a similar conclusion. Sanctuary policies do not threaten public safety, and they reduce the number of deportations of noncriminal immigrants, potentially by as much as half.<sup>37</sup>

Another promising policy is community policing, which aims to develop strong relationships between community members and law enforcement. These programs allow immigrants the ability to directly work with local law enforcement officers to ensure safety in their communities. Unlike traditional law enforcement, community policing empowers individuals by creating a partnership with the local police so individuals can comfortably indicate their safety concerns.<sup>38</sup> Evidence compiled by police-centered non-profits from Madison, Wisconsin, and Aurora, Colorado, shows that the cooperation of community members and community leaders with local law enforcement builds trust. Programs to educate officers about the cultures in their community and use different tools such as Spanish-language media to communicate with immigrant communities demonstrate how the relationship between immigrants and law enforcement can be positive and long-lasting.<sup>39</sup>

Fostering a better relationship between immigrants and local law enforcement officers would help address crime without instilling fear in immigrant populations or harming those who could contribute to growing the US economy. Policymakers should reconsider policies that emphasize targeting immigrant populations and instead favor policies that promote inclusive communities.

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## Endnotes

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