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Latinxs in the South

20 April 2020

### The 287(g) Program: What is it and How is it Affecting North Carolina?

The 287(g) program is a controversial immigration program that warrants important discussion and analysis. This program allows local authorities to take on the duties of Immigration and Customs Enforcement (ICE) agents, which decreases the Latinx community's trust in local authorities in regions where 287(g) has been implemented and further increases racial disparity. These relations can be seen in all areas where the program is in place, but they are even further exacerbated in the Southeast, including North Carolina, which this paper will explore.

When the Illegal Immigration Reform and Immigrant Responsibility Act was passed in 1996, it included the Immigration and Nationality Act (INA). Section 287(g) of INA provided for a program that would allow the Department of Homeland Security (DHS) to attribute some functions of federal immigration agents to local law enforcement officers, which resulted in the program being named the 287(g) program ("The 287(g) Program: An Overview"). The DHS enters formal written agreements with local police departments which delegate authority to a limited number of police officers. Deputized officers are required to complete a four-week immigration authority delegation program at the Federal Law Enforcement Training Center ICE Academy in Charleston, SC, with refresher courses every two years. After training, deputized officers are given these abilities:

- interview individuals to ascertain their immigration status;

- check DHS databases for information on individuals;
- issue immigration detainers to hold individuals until ICE takes custody;
- enter data into ICE's database and case management system;
- issue a Notice to Appear (NTA), which is the official charging document that begins the removal process;
- make recommendations for voluntary departure in place of formal removal proceedings;
- make recommendations for detention and immigration bond; and
- transfer noncitizens into ICE custody.

("The 287(g) Program: An Overview")

Some of these abilities may vary depending on the program model that a local department has in place. There are only two types of models currently in place: the jail enforcement model and the warrant service officer model. The jail enforcement model allows deputized officers to "interrogate alleged noncitizens who have been arrested on state or local charges and may place immigration detainers on inmates thought to be subject removal" ("The 287(g) Program: An Overview"). In regions with the warrant service officer model, "ICE trains, certifies, and authorizes selected state and local law enforcement officers to execute ICE administrative warrants. These officers are permitted to perform the limited arrest functions of an immigration officer within the law enforcement agency's jails and/or correctional facilities" ("The 287(g) Program: An Overview"). While the warrant service officer model appears to give deputized officers many more capabilities and responsibilities, it is important to note that these local law enforcement officers cannot interrogate suspected noncitizens about immigration status like those under the jail enforcement model.

North Carolina once had more counties in 287(g) agreements than any other state in the country, making it a “pioneer for 287(g)” (Armus). Since 2018, many counties have cut ties with ICE programs upon the elections of African American Democratic sheriffs, including Mecklenburg and Wake counties, the two most populous in the state. Today, the 287(g) program is in place in only four North Carolina counties: Cabarrus, Gaston, Henderson and Nash. (Armus). And while it seems that the state is moving away from this harmful program, North Carolina’s history with the program has already shown its upsetting effects. In 2012, a federal investigative report by the Justice Department “painted [Sheriff Terry S. Johnson of Alamance County] as a racist who routinely violates the civil rights of [Latinxs],” namely, through the use of the 287(g) program and the abilities given to his officials (“Federal Report on Sheriff”). Johnson -- who has been one of the most vocal proponents of the 287(g) program in North Carolina -- and his deputies routinely and illegally “targeted, stopped, detained, and arrested [Latinxs] without probable cause with the aim of boosting deportations” (“Federal Report on Sheriff”). Latinx drivers were ten times more likely to be stopped by Johnson’s deputies than non-Latinx people and furthermore, Johnson is quoted as telling his deputies “if you stop a Mexican, don’t write a citation, arrest him” (“Federal Report on Sheriff”). The 287(g) program provided a corrupt sheriff with a platform to act on his prejudiced ideals and opinions, creating a nationwide reputation for Alamance county as a place for the Latinx community to avoid.

The situation in Alamance county is not isolated and the 287(g) program is negatively affecting many communities in North Carolina and the Southeast at large. While the 287(g) program was designed to target serious criminals, a report by the Migration Policy institute finds that the program does the opposite, with half of all 287(g) action involving noncitizens being arrested for traffic offenses and misdemeanors (Capps, et al.). Multiple studies from the

University of Chapel Hill support this claim specifically in North Carolina. The studies found that most individuals targeted by the program in North Carolina had no criminal record and were not posing any threat to public safety. (“The 287(g) Program: An Overview). Jurisdictions that aim to deport as many noncitizens as possible claim that they are working on a “universal” model of the program that does not focus on criminal history; however, this is not what the program was ever intended to do. Universal models are found more in the Southeast than anywhere else in the country (Capps, et al.).

Implementation of the 287(g) program has caused the relationships between Latinx communities and their local authorities to evolve into relationships of mistrust and fear. In Maricopa County of Arizona, even the sheriff’s office admitted that their involvement with the program “poisoned the relationship between law enforcement and [Latinxs], hindering law enforcement efforts within the [Latinx] community (“The 287(g) Program: An Overview”). Because of the spreading fear among the Latinx community, crimes are less likely to be reported which harms their safety and the safety of the entire community (“Immigration 101”). The International Association of Chiefs of Police, the world’s largest and most influential group of police leaders committed to increasing community safety, has stated:

Local police agencies depend on the cooperation of immigrants, legal and [otherwise], in solving all sorts of crimes and in the maintenance of public order. Without assurances that they will not be subject to an immigration investigation and possible deportation, many immigrants with critical information would not come forward, even when heinous crimes are committed against them or their families.

(Feeney)

This dynamic has caused a stark contrast between the safety of communities with the 287(g) program in place and “safe cities,” which are regions that aim to protect low-priority immigrants from deportation while reporting immigrants who have actually committed serious offences. Safe cities are much safer than communities with the 287(g) because the police force is not split between duties and the immigrant community can actually trust the local government and officials. Analysis has shown that on average, there is 15% less crime in safe cities than non-safe cities (“Immigration 101”).

In addition to the extremely harmful effects to the Latinx community, the general public has issues with the program. From research, it appears that most people in jurisdictions with the program that are not affected by it -- non-Latinx people -- are not aware of its existence or effects. While there is some mention of 287(g) in local newspapers when it is put in place, there is not much explanation or analysis included; it is not a transparent program. And one thing that is hidden from local communities is the cost of this program to their counties. ICE covers the cost of program training for deputized officers, but does not cover any of the costs associated with travel or housing necessary for officers to attend training. These costs fall on the local government. Salary or overtime costs associated with the implementation of the program and all other personnel costs also fall on the local government (“The 287(g) Program: An Overview”). And once the program is in place, the increased amount of arrests that officers make adds more costs to the local government. The federal government does have a program in place to help with the costs of detaining noncitizens, but this program has never been fully funded and local governments rarely see reimbursements. The first year that Mecklenburg County had the program in place, it cost 5.3 million dollars. And in Alamance County, a county a fifth the size of Mecklenburg, the program cost 4.8 million in the first year (“The 287(g) Program: An

Overview). Most people are completely unaware that this much of their tax dollars are going to this program, which overall does not increase their safety, but takes away from it.

Overall, there are many issues with the 287(g) program; but the biggest issue is that people do not know about it. Political views and ideology aside, there are objective problems to be found with this program. From an ethical view, people are being disadvantaged and unfairly targeted because of their ethnicity. From a logistical view, the program places remarkable financial burden on local governments. The 287(g) program should be readdressed and reformed at the least, if not abolished completely.

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